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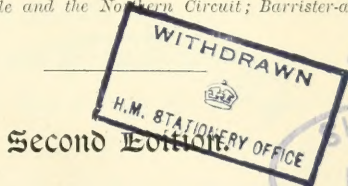
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## PREFACE TO THE SECOND EDITION.

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I HAVE endeavoured to keep in view in the preparation of this Edition the original object of this work, namely, "to make it in itself at once a complete digest of Registration Law and a handy book of Registration practice," and to bring the present edition thoroughly up to date.

Cases cited are referred to with dates, and references to all the reports of every case are given in the Table of Cases. Bearing in mind the respect shown to the decisions of the Scotch and Irish Courts in several recent cases, I have included a considerable selection of Scotch and Irish cases as well as all the English decisions upon the subject reported since the appearance of the first edition of this work. The Table of Statutes shows the various pages in which each section is cited or contained. The statutes added since the publication of the first edition include the Local Government Act, 1894, and others of great importance in relation to the subject.

The Appendix contains all the Acts of Parliament relation to Registration, including rating as affecting Registration, since the introduction of Registration by the Reform Act, 1832, with notes showing how far they have been repealed or amended. The figures in the margin

opposite sections and parts of sections of Acts of Parliament show the page at which each enactment, and the cases bearing upon it, are discussed in the text. At the end of the Appendix will be found the Order in Council called the Registration Order, 1895, fully annotated and followed by the regulations of the Postmaster-General with reference to the posting of claims and objections under section 100 of the Parliamentary Registration Act, 1843.

I am indebted to my friend Mr. Thomas Rawling Bridgwater, of the Middle Temple, Barrister-at-law, for much valuable assistance in revising the work throughout.

S. G. L.

4, TEMPLE GARDENS,

*July, 1897.*

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# THE REGISTRATION OF PARLIAMENTARY

AND

## LOCAL GOVERNMENT ELECTORS.

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### INTRODUCTION.

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**1. The Subject.]** The subject of this book is the Law relating to the Registration of Parliamentary and Local Government Electors in England and Wales.

No person may vote at any election of a member of the House of Commons to serve in Parliament for any constituency in England or Wales, or at any election of county, municipal, district, or parish councillors, unless duly registered as being entitled to vote at such election.

The registers in every parliamentary constituency and local government area are complete lists of the names, addresses, and qualifications of all persons entitled to vote at any parliamentary or local government election for such constituency or area, and every year they undergo a complete revision.

**2. Place of the Subject in General System of Law.]** Since the registers exist for the sake of the due constitution of part of the supreme legislature and also of certain subordinate administrative bodies in this country, it is plain that the law relating to registration finds its proper place in the general system of law under that part of Constitutional Law which relates to the civil government.

**3. Division of the Subject.]** The subject is capable of the usual division into two parts ; first, the substantive branch of the

law, showing in what the right to vote consists ; and, secondly, the adjective branch, showing in what manner that right may be made available.

**4. Division of Places for purposes of Registration.]** It may be found of practical utility, however, to begin by a short discussion concerning the divisions of the places to which the law to be here considered extends, that is, those divisions which exist for the purposes of the representation in Parliament or in the local councils of the persons possessing a qualification to vote in parliamentary or local government elections, viz.:—Parliamentary constituencies and local government areas.

## I.—PARLIAMENTARY CONSTITUENCIES.

The kingdom of England and the principality of Wales, to which alone the law of parliamentary registration here to be considered extends, are divided for the purposes of the representation of the Commons in Parliament into a number of constituencies, returning one or more member or members to serve in the House of Commons.

Constituencies are mainly of two kinds, that is to say, county and borough constituencies. These are historically distinguished from each other by the nature of the qualifications of the persons entitled to vote in them, but the distinction has of late years been to a large extent done away with.

The Universities of Oxford, Cambridge, and London also return members to serve in Parliament as their representatives.

### 1. COUNTY CONSTITUENCIES.

County constituencies formerly corresponded with the ancient civil division of the country into shires or counties, every county in England having, at the common law, the right of returning two knights of the shire to serve in Parliament, and every county in Wales having, under the statute 27 Hen. 8, c. 26, the right to return one knight.

At the present time, most counties, commonly so called, are for the purposes of returning members to Parliament, and consequently for the purposes of the registration of parliamentary electors, divided into divisions with an approximate population of fifty thousand inhabitants each, returning one member for each

division, each such division being called in the statutes relating to the subject a parliamentary county. The county of Rutland, the Isle of Wight, and the counties of Wales, except Carnarvon, Carmarthen, Denbigh, and Glamorgan, remain undivided, and return one member each.

The divisions of the divided counties are set out with their names and contents in the Redistribution of Seats Act, 1885 (*a*).

## 2. BOROUGH CONSTITUENCIES.

Borough constituencies have their origin in towns which, by royal charter, by prescription, by writ of summons, or by Act of Parliament, enjoyed the privilege of returning a member or members to serve in Parliament (*b*). The majority of such towns were called boroughs, but some of the more important of them, having a charter of incorporation, and a bishop within time of memory, were called cities. The city of Westminster, however, never was incorporated, but became a city by express creation in the letters patent which created the bishopric, and it continued to be a city after the bishopric was dissolved (*c*).

The ancient boroughs once in possession of the privilege of returning members appear as a rule not to have allowed the exercise of the privilege to fall into desuetude, although the town itself might have become utterly decayed, as in the case of Old Sarum and other ancient boroughs. But by the Reform Act, 1832 (*d*), many of the old boroughs were disfranchised, and the number of members to be returned by others was reduced. Similar reforms were effected by the Representation of the People Act, 1867 (*e*), and the Redistribution of Seats Act, 1885 (*f*). Under the last-mentioned Act, the larger boroughs were divided, and return one member for each division. The general result of the legislation on the subject is similar to that which has been described in regard to county constituencies, viz., that boroughs having a population of under fifty thousand return one member each, and the larger boroughs are divided into divisions of about

(*a*) 48 & 49 Vict. c. 23, s. 9, and Schedule 7.

(*b*) Heyw. Bor. EL. 4.

(*c*) See Co. Litt. 109b, and Mr. Hargrave's note thereon. Westminster is now a parliamentary borough, under s. 6 and Schedule 4 of the Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23).

(*d*) 2 & 3 Will. 4, c. 45, ss. 1—5.

(*e*) 30 & 31 Vict. c. 102, ss. 17—23.

(*f*) 48 & 49 Vict. c. 23.



the same size, returning one member for each division. Twenty-two, however, of the undivided boroughs still return two members each.

The boundaries of the constituencies are fixed by the Boundary Acts of 1832 and 1868 (*g*), and the Redistribution of Seats Act, 1885 (*h*).

### 3. PARLIAMENTARY SUB-DIVISIONS.

Every parliamentary county or borough is sub-divided for the purposes of registration into so many parishes and townships.

#### (a) *Townships.*

A township was originally that portion of the land belonging to a village community which was occupied by the houses and the curtilages around each house. The existence of several habitations near each other was necessary to constitute a township (*i*); it is said that there must be the dwelling-places of ten families at least (*k*). But once a township always a township, although it may be decayed so that no houses remain (*l*).

The township has been from the earliest times the unit of constitutional machinery. Every township had its own assembly, which exercised some sort of jurisdiction and appointed its own constable (*l*).

#### (b) *Parishes.*

A parish was a precinct within a diocese committed to the charge of one parson, vicar, or other minister having the cure of souls therein (*m*). As a general rule, a parish was a township, regarded ecclesiastically (*n*), but, since many townships were too small to support a separate church and priest, there are many parishes each of which contains several townships; and, on the other hand, although much more exceptionally, one township may include several parishes. In small parishes the idea, and even the name, of township is frequently at the present day sunk in that of parish (*o*).

(*g*) 2 & 3 Will. 4, c. 64, and 31 & 32 Vict. c. 46.

(*h*) 48 & 49 Vict. c. 23.

(*k*) Com. Dig. Tit. Parish, (c.) 1.

(*l*) Stubbs' Const. Hist. vol. i., p. 85 *et seq.*

(*m*) Selden's Tithes, p. 80; 1 Bl. Comm. 112.

(*n*) Stubbs' Const. Hist. vol. i., p. 85.

(*i*) Co. Litt. 115b.

(*o*) *Ibid.* p. 227.

For the purposes of registration, the terms "parish" and "township" may be regarded simply as alternative names for a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed (*p*), because the system of organization created for the purposes of the poor laws has been turned to account for the purposes of the registration of parliamentary and local government electors; and it is to be observed that by s. 5 of the Interpretation Act, 1889 (52 & 53 Vict. c. 63) in every Act passed after the year 1866, the expression "parish" shall, unless the contrary intention appears, mean a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed (*q*).

But when any parish or township lies partly within one constituency and partly within another, each part is regarded, for the purposes of registration and of voting at Parliamentary elections, as a separate parish or township (*r*).

#### 4. UNIVERSITIES.

The Universities of Oxford and Cambridge are empowered by royal letters patent of King James I. (of which those relating to Oxford are dated March 12th, 1603, and those relating to Cambridge are of the same year), to choose and send up each of them two members to sit and represent them in Parliament (*s*). These privileges were the subject of a special saving in the Reform Act, 1832 (*t*). They were recognized by the Universities Election Acts, 1861 (*u*) and 1868 (*v*); by the Ballot Act, 1872 (*x*); and by the Registration Act, 1885 (*y*).

The University of London is empowered by the twenty-fourth section of the Representation of the People Act, 1867, to return one member to serve in Parliament (*z*).

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(*p*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 4; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 19; Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), s. 23.

(*q*) Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 5.

(*r*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 9.

(*s*) Wood's Hist. and Antiq. of Oxford, ed. 1792, 4to, by Gutch, vol. ii., at p. 281. Dyer's Privil. of Cambridge, ed. Svo. 1824, vol. i., p. 135, citing from Hare, vol. iii., fol. 170. Huber by Newman, English Universities, ed. 1843, vol. ii., p. 3; vol. iii., p. 421, note 42.

(*t*) 2 & 3 Will. 4, c. 45, s. 78.

(*v*) 31 & 32 Vict. c. 65.

(*u*) 24 & 25 Vict. c. 53.

(*x*) 35 & 36 Vict. c. 33, ss. 27 and 31.

(*y*) 48 & 49 Vict. c. 15.

(*z*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 24.

## II.—LOCAL GOVERNMENT AREAS.

The system of local government by representative bodies formerly obtained only in certain cities and boroughs which were incorporated by royal charter, or by prescription, which presupposes a charter. At the time of the passing of the Municipal Corporations Act, 1835, the Commissioners upon whose report that Act was based found satisfactory reasons for believing that there were in England and Wales in all 246 corporate towns. The constitution of 178 of these towns was reformed by that Act, but it did not apply to the City of London or to 67 small towns which were included in the 246. The Act, however, contained provision for its extension to towns subsequently to be incorporated by charter. Many such towns were so incorporated, and the Act of 1835 was itself frequently amended, until in 1882 the whole of the legislation upon the subject was consolidated by the Municipal Corporations Act, 1882, and in 1883 another short Act was passed for the abolition of the corporations of the surviving small corporate towns not subject to the Act of 1882 unless brought in under that Act by charter. The more important cities and boroughs to which the Municipal Corporations Act, 1882, applies, are, for the election of municipal councillors, divided into wards, with a separate election of councillors for each ward. The councillors are elected by the persons registered as burgesses, and the lists of burgesses in the several wards are made out separately for the several parishes therein contained.

This system of local government by representative bodies has been extended by the Local Government Act, 1888, to every part of a county not within the limits of any such city or borough. For this purpose the whole of England and Wales are divided into areas called administrative counties, each having its own council, and certain of the largest cities and boroughs are made counties of themselves by the title of county boroughs. The City of London and the parishes and places mentioned in Schedules A., B., and C., of the Metropolis Management Act, 1855 (*a*), together form a single administrative county called the county of London.

The administrative counties, excluding the county boroughs but including the county of London, are, for the election of the county councillors, divided into electoral divisions (boroughs

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(*a*) 18 & 19 Viet. c. 120.

returning one county councillor only being electoral divisions of themselves), and all county councillors are elected by the persons registered as county electors and burgesses, the lists of county electors in the several electoral divisions, other than boroughs or parts of boroughs, being made out separately for the several parishes therein contained.

“County electors” is, therefore, an expression strictly limited in its application to the persons registered to vote at elections of county councillors for electoral divisions, not being boroughs or parts of boroughs. In boroughs or parts of boroughs the electors of the county councillors are the persons registered as “burgesses.”

### URBAN AND RURAL DISTRICTS.

For the purposes of the administration of the law relating to public health, all England and Wales are also divided into districts either urban or rural, and each of such districts is subject to the jurisdiction of an urban or rural district council.

Urban districts are of two kinds—(1) municipal boroughs and (2) other urban districts.

Municipal boroughs (constituted as such either before or after the passing of the Public Health Act, 1875) are urban districts of themselves, and the town council is the urban district council for the district of the borough. All other urban districts are of two kinds, first, those which were, before the passing of the Local Government Act, 1894, either Improvement Act districts or Local Government districts; secondly, those which have been since the passing of the Local Government Act, 1894, constituted as urban districts otherwise than by incorporation as municipal boroughs. In urban districts other than boroughs, the urban district council consists of councillors elected by the persons registered as parliamentary electors or as county electors.

Rural districts are now co-extensive with poor law unions, and the rural district councils consist of councillors elected as representatives of the several parishes within the district by the persons registered in so much of the local government and parliamentary registers as relate to each particular parish. The persons so registered are called “parochial electors,” apparently because the same persons are entitled to elect the parish councillors of such parishes within the district as have parish councils. Strictly speaking, the expression is not applicable to the electors of urban district councillors for districts other than boroughs,

although it is so used in s. 23 (3) of the Local Government Act, 1894.

#### PARISHES.

In rural districts only, certain parishes have parish councils of their own. Such parishes are of two kinds :—

1. Parishes having a population of three hundred or upwards at the census of 1891.
2. Parishes having a population of less than three hundred at the census of 1891, provided that an order of the county council has been made for establishing a parish council therein.

The parish councillors are in every case elected by “parochial electors,” properly so called, who have been already described.

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# PART I.

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## QUALIFICATIONS OF ELECTORS.

No PERSON, as already stated, may vote at any election, whether a parliamentary or local government election, without being duly registered, although the vote of every person registered is not necessarily good upon petition.

**Division of Subject.]** The qualification required by law in order to entitle a person to be registered as an elector will be considered, first, with regard to parliamentary electors, and secondly, with regard to local government electors.

The qualifications of parliamentary electors will be considered in respect of electors in a parliamentary county, and afterwards in respect of electors in a parliamentary borough, and, lastly, in respect of electors for the Universities.

Then will be considered the qualifications of local government electors.

Lastly, will be considered, the extent to which all the various kinds of qualifications are affected by the special characteristics of the persons possessing them.

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## CHAPTER I.

### COUNTY VOTERS.

THE qualifications of parliamentary electors in parliamentary counties may be considered as divisible into:—

**A.**—Ownership qualifications (p. 10); and

**B.**—Occupation qualifications (p. 100) (*b*).

Ownership qualifications are qualifications which consist in

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(*b*) See Registration Act, 1885 (48 & 49 Vict. c. 15), Sched. 2, Part I.

the ownership of property, whether as a freeholder or copyholder, or as a lessee or assignee of the residue of a long term.

Occupation qualifications are qualifications by virtue of a fifty pounds rental, or ten pounds occupation, or as a householder or lodger.

### A.—Ownership Qualifications.

A person entitled to be registered as a parliamentary elector in a parliamentary county, in respect of an ownership qualification, must be possessed of one of the following qualifications, viz:—

I.—Freehold (p. 10);

II.—Copyhold (p. 75); or

III.—Leasehold (p. 85),

as hereinafter defined.

#### I.—FREEHOLDS.

*A person entitled to be registered as a parliamentary elector in respect of a freehold qualification (c)—*

(A.) *Must be beneficially entitled at law or in equity to a freehold estate in freehold lands or tenements of the clear yearly value—*

(i.) *If the estate be an estate of inheritance, of forty shillings; or*

(ii.) *If the estate be for life or lives, and except the owner is in actual and bonâ fide occupation, or except the lands and tenements have come to him by marriage, marriage settlement, devise, or promotion to any benefice or any office, of five pounds, otherwise, of forty shillings,*

*over and above all rents and charges payable out of or in respect of the same; and*

(B.) *Must have been in actual possession or receipt of the rents and profits to his own use for six calendar months next previous to the fifteenth of July in the year in which such person is to be registered, unless the property has been acquired by him within that period by descent, succession, marriage, marriage settlement, devise, or promotion to any office or benefice.*

*If two or more persons jointly are such owners as above mentioned, one of such owners is entitled to be registered as an elector; but no more are so entitled, unless they have derived their interest by*

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(c) See 8 Hen. 4, c. 7; Reform Act, 1832 (2 & 3 Will. 4, c. 45), ss. 18, 23, 26; Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 74; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 4.

*descent, succession, marriage, marriage settlement, or will, or unless they occupy the lands or tenements, and are bonâ fide engaged as partners carrying on a trade or business thereon, in any of which cases each of such owners, whose interest would if he were a sole owner be sufficient, may be registered, and the value of the interest of each such owner, where not otherwise legally defined, shall be ascertained by the division of the total value equally among all the owners.*

The like provisions as to joint owners apply equally in the case of a copyhold or leasehold qualification, and need not therefore be repeated when the copyhold and leasehold qualifications are defined (*d*).

The definitions of copyhold and leasehold qualifications are reserved until after the full discussion of a freehold qualification, and since the full discussion of a FREEHOLD QUALIFICATION must necessarily occupy a considerable space, it may be of advantage to state here the heads under which it is proposed to arrange the discussion. These are as follows:—

1. EARLY HISTORY (p. 12).
2. RESIDENCE (p. 13).
3. FORTY SHILLING FREEHOLDS (p. 13).
4. MEANING OF FREEHOLD (p. 14), first, in respect of tenure, and secondly in respect of estate.
5. FREE TENURE (p. 14), which is either (1) ecclesiastical or (2) lay.
6. THE SUBJECTS OF FREE TENURE (p. 18), such as (1) land ; (2) offices ; (3) annuities, rents charge, and fee farm rents ; (4) commons ; (5) advowsons ; (6) franchises, such as tolls, forests, rights of free warren, and free fishery ; (7) profits tithes, etc. ; (8) easements ; (9) pew rights ; and (10) shares in companies.
7. FREEHOLD INTERESTS (p. 33), which are either (1) legal, or (2) equitable.
8. LEGAL FREEHOLDS (p. 33), which are either (1) of inheritance, as fee simple and modified fees, or (2) not of inheritance, as estates in tail after possibility, or by the curtesy, or in dower, or for life.

9. **EQUITABLE FREEHOLDS** (p. 40), *i.e.*, trust and mortgage estates (1) before the Reform Act, 1832; (2) after the Reform Act; and (3) modern questions affecting this branch of the subject, first as regards express trusts, and secondly as regards constructive trusts.
10. **ESTATES OF UNDIVIDED OWNERSHIP** (p. 51), (1) their several kinds, such as joint tenancy, coparcenary, tenancy in common, and (2) the right to vote in respect of undivided estates generally.
11. **VALUE OF THE FREEHOLD** (p. 54), (1) its history; (2) the method of ascertaining it; and (3) what rents and charges are to be deducted, dealing specifically with (A) interest on mortgages, (B) debts and legacies to which the freehold is subject by devise, (C) rents charge, (D) rates and taxes, (E) tithe commutation rent charge, (F) repairs, (G) expenses of collecting rent, (H) improvement charges, (I) dower, and (K) judgments.
12. **ALIENATION OF THE FREEHOLD** (p. 65), whether (1) by act of parties, or (2) by operation of law, and in respect of the former, *viz.*, alienation by act of parties, dealing with the subjects of fraud and occasionality.

### 1. EARLY HISTORY.

It is generally agreed by antiquarians that anciently the knights of the shire were elected in the county court by those who owed suit and service there. By the statute 7 Hen. 4, c. 15, (*e*) (which was impliedly repealed by statute 8 Hen. 6, c. 7 (A.D. 1429), and expressly by the Ballot Act, 1872), (*f*) the sheriff was directed to proclaim the day and place of the Parliament in his full county, "and all they that be there present, as well suitors duly summoned for the same cause as other (*sibien suterez duement somonies par cele cause come autres*), shall attend to the election of knights for the Parliament, and then in full county they shall proceed to the election freely and indifferently, notwithstanding any request or commandment to the contrary." Here it is evident that by the words "as other" the statute meant "as other suitors not so summoned" (*g*). And so Lord Chief Justice Holt says, (*h*) "The

(*e*) A.D. 1405.

(*f*) 35 & 36 Vict. c. 33.

(*g*) Heyw. Co. El. 56; see Blackstone's Law Tracts, 3rd ed., p. 206.

(*h*) 2 Ld. Raymd. at p. 950, A.D. 1702.

election of knights belongs to the freeholders of the counties, and it is an original right vested in them, and inseparable from the freehold, and can no more be severed from their freehold than the freehold itself can be taken away. Before the statute of 8 Hen. 6, c. 7, any man that had a freehold, though never so small, had a right of voting, but by that statute the right of election is confined to such persons as have lands and tenements to the yearly value of forty shillings at least, because, as the statute says, of the tumults and disorders which happened at elections by the excessive and outrageous number of the electors: but still the right of election is an original right incident to and inseparable from the freehold."

## 2. RESIDENCE.

The first restraint upon the electors for counties which has been handed down to us (for the preamble of the above-mentioned statute refers to previous statutes relating to such elections), was imposed by an Act passed in 1 Hen. 5, c. 1 (*i*), which enacted that the knights and squires and others which should be choosers of knights of the shire should be resident within the shire, where the election was, on the day of the date of the writ of the summons of Parliament. The statutes 8 Hen. 6, c. 7 (*k*), and 10 Hen. 6, c. 2 (*l*), also required, in addition to the qualification hereinafter mentioned, that they should be dwelling and resident within the county. These provisions, after having been disregarded for centuries, were repealed by statute 14 Geo. 3, c. 58 (*m*), and thereby an end is put to all questions upon the residence of these electors (*n*); for although the statute 14 Geo. 3, c. 58, has been repealed by the Statute Law Revision Act, 1871 (*o*), the repeal does not revive the portion of the statutes of Henry V. and Henry VI. repealed by 14 Geo. 3, c. 58 (*p*).

## 3. FORTY SHILLING FREEHOLDS.

The statute 8 Hen. 6, c. 7 (*q*), first required the electors for counties to have a qualification of freehold to a certain value. This Act provides that "the knights of the shires, to be chosen within the same realm of England to come to the Parliaments of

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(*i*) A.D. 1413.

(*k*) A.D. 1429.

(*l*) A.D. 1431.

(*m*) A.D. 1774.

(*n*) Heyw. Co. El. 58.

(*o*) 34 & 35 Vict. c. 116.

(*p*) See 13 & 14 Vict. c. 21, s. 5.

(*q*) A.D. 1429.



our lord the king hereafter to be holden, shall be chosen in every county of the realm of England, by people dwelling and resident in the same counties, whereof every one of them shall have freehold to the value of forty shillings by the year at the least, above all reprises (*dont chescun ait frank tenement à la value de xl s. par an al meins outre les reprises*)."

The last-mentioned statute not having expressly required that the freehold of an elector should be within the county, the statute 10 Hen. 6, c. 2 (*r*), as declaratory thereof, after using the self-same words describing the qualification, "*dont chescun ait frank tenement à la value de xl s. par an al meins outre les reprises*," added the words, "*deins mesme le countee ou ascun tiel eslisour soi roet meller dascun tiel election*," i.e. "within the same county where any such elector will meddle of any such election."

#### 4. MEANING OF FREEHOLD.

*Frank tenement, liberum tenementum*, or freehold, originally signifies that which is holden of a lord by free, as opposed to unfree services. "*Item dicitur liberum tenementum ad differentiam ejus quod est villenagium, quia tenementorum aliud liberum aliud villenagium*" (*s*). But, as the necessary connection between the personal status of freedom and the holding of land comes to be of less importance, the word "*freehold*" gradually loses its original signification, and is confined to what was before only one of the principal attributes of free tenure, viz., an interest in intendment of law larger than the life of a man at least, and the determination of which is not fixed or ascertained by a specified limit of time. So LITTLETON, writing when he was a judge after the 14th Ed. 4 (*t*), states that "every one which hath an estate in any lands or tenements for terme of his owne or another man's life is called tenant of freehold (*tenant de frank tenement*), and none other of a lesser estate can have a freehold: but they of a greater estate have a freehold, for he in fee simple hath a freehold, and tenant in tail hath a freehold, etc" (*u*).

#### 5. FREE TENURE.

As to the original meaning of the expression, it is first to be observed that at the date of the passing of the statute

(*r*) A.D. 1431.

(*s*) Bracton, vol. iv., c. 28, fol. 207.

(*t*) A.D. 1475.

(*u*) Litt. s. 57.

8 Hen. 6, c. 7 (*x*), tenure, or the specific feudal relation between lord and tenant in respect of lands, might be divided according as the incidents of the tenure were regulated by the force of the common law alone, or by the force of custom recognized by the common law. The statute is only concerned with free tenures, which are co-extensive at the present day with those tenures of which the incidents are regulated by the common law alone.

By the doctrine of the common law all the land in England is either in the hands of the King himself or is held of him immediately by his tenants *in capite*, or mediately by the tenants of mesne lords. But at the present day, wherever a freehold tenant in fee simple holds of a mesne lord, the separation of the freehold from the manor must have occurred before the passing of the statute of Quia Emptores (*y*), in 1290, in the case of a manor held of a subject, or before the passing of the statute De Prærogativa Regis (*z*), in 1324, in the case of a manor held of the Crown (*a*).

The following case is an instance of a claim to vote in respect of lands held of a mesne lord in fee simple.

George Pitty claimed to have his name retained on the register as a voter and to vote at the election of knights of the shire for Hertfordshire in respect of a house and land held by him in fee simple of the lord of the manor of Digswell by free deed, fealty, suit of court, and the yearly rent of fourpence, free tenure being acknowledged by him on the court rolls of the manor. The tenement was of the clear yearly value of more than forty shillings, and less than ten pounds, which was the value necessary to confer a vote in the case of customary tenements. It was argued that Pitty held by a customary, and not by a frank tenure; but the court held that he had a freehold, although he held it of the lord, as of his manor (*b*).

At the time of the passing of the statute 8 Hen. 6, c. 7 (*c*), tenures at the common law, or frank tenures, were either lay or ecclesiastical.

**(1) Free Ecclesiastical Tenure.**—With regard to ecclesiastical tenures by frankalmoign or divine service, at the time of the passing of the statute 8 Hen. 6, c. 7, the clergy were not represented in the Commons, but in their own assembly in Convocation. They usually met in convocation at the same time with the Parliament, and levied taxes on their own body separate

(*x*) A.D. 1429.

(*y*) 18 Ed. 1, stat. 1.

(*z*) 17 Ed. 2, stat. 1.

(*a*) *Rex v. Wilson* (1829), 5 M. & R. 140, note (*a*).

(*b*) *Passingham v. Pitty* (1855), 17 C. B. 299.

(*c*) A.D. 1429.

and distinct from those imposed on the laity. And in 1624, in the *Cambridgeshire case* (*d*), upon a complaint by the freeholders, it was resolved "that parsons and vicars that have no other freehold but glebe lands ought not to have a voice in elections." But within about forty years after the *Cambridgeshire case* a very material alteration took place in the situation of the clergy. For during the time of the Rump Parliament, the clergy of the then Established Church were taxed by a land and poll tax in common with the laity; and, in common with them, are allowed to vote at the elections of members of Parliament. After the Restoration, in 1660, when the hierarchy of the Church of England was re-established, the ministers of Charles II., finding the mode of levying taxes by subsidies unproductive, formed the design of continuing the system of taxation which had been introduced during the troubles, and the clergy made no objection. Motives of policy also might have operated to procure a favourable reception for this innovation, for it was known that the principal power of the sectaries lay in the House of Commons; and, by this masterly stroke, the King and the Church secured nearly as many votes at the elections of knights of the shires as there were beneficed clergymen in each county. The informal and secret manner in which this important change in the constitution of Parliament was introduced strongly confirms the suspicion that corrupt motives were at the bottom of it. For it was first settled by a verbal agreement only between Archbishop Seldon and Lord Clarendon, which was tacitly agreed to by the clergy in general (*e*).

The first Act of Parliament by which this agreement was enforced was by the Act 16 & 17 Car. 2, c. 1 (*f*), by which a new tax was levied on the clergy in common with the laity. In consequence of this "the clergy have assumed, and without any objection have enjoyed, the privilege of voting in the election of members of the House of Commons by virtue of their ecclesiastical freeholds," as they did in the Rump times (*g*). Conformably to the alteration of the constitution of parliamentary representation, this right in the clergy has been impliedly recognized by many subsequent statutes, *e.g.*, by 10 Anne, c. 23, s. 2; 12 Anne, c. 5, in the preamble; 18 Geo. 2, c. 18, s. 2; 2 & 3 Will. 4, c. 45, s. 18.

(*d*) 1 Comm. Journ. 798.

(*e*) 2 Hatsell's Precedents, 15, note.

(*f*) A.D. 1664. Repealed by the Statute Law Revision Act, 1863 (26 & 27 Vict. c. 125).

(*g*) 2 Hatsell, 10.

It is not necessary in all cases that a beneficed clergyman should be, properly speaking, a corporation sole in order to entitle him to be registered and to vote in respect of his ecclesiastical freehold. For instance, lands of the clear annual value of forty shillings were in 1856 duly conveyed in exchange under the Glebe Exchange Act, 1815 (55 Geo. 3, c. 147), "to the use of C. and his successors, vicars of the vicarage of Holy Trinity, Cambridge, for the time being, for ever." The incumbency was only a perpetual curacy, and was not shown to have been augmented from Queen Anne's Bounty (see section 4 of the Queen Anne's Bounty Act, 1714 (1 Geo. 1, St. 2, c. 10)), but the incumbent was licensed by the bishop upon due presentation to perform the office of perpetual curate of Holy Trinity, and to receive and enjoy all the profits belonging to the said office. It was held that even if he was not properly a corporation sole, yet he had either a legal or an equitable freehold for life in the lands in question, and was entitled to be registered as a voter and to vote in respect thereof (*h*).

A clergyman may, however, not be entitled to be registered in respect of ecclesiastical freehold by reason of such freehold being in an ecclesiastical corporation aggregate of which the individual is but a member, but that is a different point, and is treated of in another part of this book (*i*).

(2) **Free Lay Tenure.**—Returning to lay frank tenures at the common law, they were, at the time of the passing of the statute 8 Hen. 6, c. 7 (*k*), either in chivalry or in socage (*l*). Tenures in chivalry were abolished, except as to the honorary services of the kind of tenure called grand serjeanty, by the statute for the abolition of wards and liveries, 12 Car. 2, c. 24 (*m*). Socage tenures remain, therefore, as the only free lay tenures existing by the force of the common law alone after that date.

In certain ancient towns there is a variety of free and common socage tenure called burgage tenure. "Tenure in burgage is where an ancient burrough is, of which the king is lord, and they that have tenements within the burrough hold of the king their tenements; that every tenant for his tenement ought to pay to the king a certain rent by yeare, etc. And such tenure is but tenure in socage (*n*). And the same manner is where another lord spirituall or temporall is lord of such a burrough, and the tenants of the tenements in such a burrough hold of their lord to pay,

(*h*) *Wallis v. Birks* (1870), L. R. 5 C. P. 222.

(*i*) *Post*, Chapter IV.

(*k*) A.D. 1429.

(*l*) Litt. s. 118.

(*m*) A.D. 1660.

(*n*) Litt. s. 162.



each of them yearly an annual rent" (o). These tenures, besides the common characteristics of free and common socage, are distinguished by certain customary methods of disposition, descent, etc., such as the custom called borough-english, etc.; but they are not for that customary tenures but frank tenures, and the tenant has a frank tenement within the 8 Hen. 6, c. 7.

This appears by the case of *Busher v. Thompson*, decided in 1846. In that case, Thomas Busher claimed to be registered as a voter and to vote at the election of knights of the shire for Westmoreland in respect of a certain house held by him in the ancient borough of Kirby-in-Kendal. In the same township within which the ancient borough is included are houses of the ordinary socage tenure, but the house in question with others was held by burgage tenure, and there were certain customs applicable to such burgage tenements as to descent, conveyance, etc., whereby they descended, were conveyed, etc., differently to the ordinary socage tenements. And in the barony of Kendal, within which the ancient borough is included, were customary tenements with regard to which upon every change of tenant admittance at the manor court was necessary, but this was not required as to the burgage tenements; although, in other respects, the customs as to descent and disposition by will, etc., were the same in regard to the customary tenements and the burgage tenements. It was held that the freehold of the burgage tenements was in the tenants, and that the tenants were entitled to be registered as voters and to vote in respect of such tenements being of the clear yearly value of forty shillings but less than ten pounds, ten pounds being at the time of this decision the required value for lands of a tenure other than freehold (p).

## 6. THE SUBJECTS OF FREE TENURE.

The subjects "wherein a man hath a frank tenement and whereof he is seised *ut de libero tenemento*" include, says Lord COKE, "not only lands and other inheritances which may be holden, but also offices, rents, commons, profits apprender out of lands and the like" (q).

(1) **Land.**—"Land," says Lord COKE, "comprehendeth in its legal signification any ground, soil, or earth whatsoever; as arable, meadows, pastures, woods, moors, waters, marshes, furzes, and heath. It legally includeth also all castles, houses, or other

(o) Litt. s. 163.

(p) *Busher v. Thompson* (1846), 4 C. B. 48.

(q) Co. Litt. 6a.



buildings; for they consist of two things—land, which is the foundation, and the structure thereupon; so that if I convey the land or ground the structure or building passeth therewith" (*r*).

The following case came before the Bedfordshire Committee in 1785:—James Marshall was possessed of a windmill standing in a common field upon a plot of grass-ground, large enough to clear the sway of the wings, enclosed within a fence put up by himself. It was fixed upon a post, upon pattens, in a foundation of brick-work. Nothing was expressly proved to show this plot of ground to belong particularly to Marshall; and nothing, on the other hand, to show that it did not. Amongst other arguments in support of his vote it was said that, according to the evidence of the case, he must be presumed to have a right to the soil on which his mill stood; that a windmill had never been considered a chattel in any case (*s*); and upon general principles, considered as a building fixed in the soil, it must be accounted part of the freehold (*t*). The vote was held good (*u*).

But it is to be observed that if the land and houses are situate within a borough, and are occupied by the freeholder himself, and are, if used for the purposes of his trade or business, of sufficient value to confer on him, or if used for residential purposes such as would confer on him the right of voting for the borough, the freeholder is now disqualified from being registered as a voter and voting at elections of knights of the shire in respect of his freehold therein.

This was otherwise previous to the Reform Act, 1832 (*x*), but by section 24 of that Act it was provided as follows, viz., that "notwithstanding anything hereinbefore contained no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament in respect of his estate or interest as a freeholder in any house, warehouse, counting-house, shop, or other building occupied by himself, or in any land occupied by himself together with any house, warehouse, counting-house, shop, or other building, such house, warehouse, counting-house, shop, or other building being either separately or jointly with the land so occupied therewith of such value as would, according to the provisions hereinafter (*y*)

(*r*) Co. Litt. 4a. See 2 Bl. Comm. 17.

(*s*) But see *Rex v. Otley* (1830), 1 B. & Ad. 161; *Rex v. Londonthorpe* (1795), 6 T. R. 377, where the structure was not affixed to the soil.

(*t*) Cp. *Rex v. Inhabitants of New Elm* (1710), Fort. 309, where a windmill was held a tenement for the purpose of acquiring a settlement.

(*u*) 2 Lud. E. C. 440.

(*x*) 2 & 3 Will. 4, c. 45.

(*y*) *I.e.* in ss. 27 and 28.

contained, confer on him the right of voting for any city or borough whether he shall or shall not have actually acquired the right to vote for such city or borough in respect thereof" (z).

The object of this enactment was to exclude freehold estate occupied by the owner within a borough, which by reason of such occupation might confer the borough franchise on him, from also conferring on him a vote for the county within which it is situate (a); and it applied to persons registered for the first time under the Act as voters in respect of then existing rights. But since the section applies only to owners *who occupy*, and since the rights of freeholders in cities and boroughs, not being counties of themselves, are expressly reserved to them personally by section 33, it would seem that *such freeholders, if they do not occupy*, still possess the right to vote at elections for the county as well as for the borough in respect of the same freehold. The point, however, becomes obviously of less practical importance from year to year, as the persons to whom such reservations were made die out.

In the cases of *Capell v. The Overseers of Aston* and *Burton v. The Overseers of Aston*, decided in 1849, it was held that the owner and occupier of freehold land situate within a borough was not prevented by section 24 from being registered as a voter for the county in respect of it because he also occupied *as tenant* a house within the same borough of sufficient or insufficient value in itself to confer on him the borough franchise, for this reason, viz., that the land could not be regarded in any case as occupied together with the building for the purpose of conferring on him the borough franchise unless *both* the building and the land were occupied by him as owner or as tenant under the same landlord (b).

After the introduction of the inhabitant occupiers' franchise in boroughs by section 3 of the Representation of the People Act, 1867 (c), it was held in *Bunting's case* that section 25 of the Reform Act, 1832, prevented a person who would be entitled to be registered as a voter for the borough in respect of his occupation of a dwelling-house under section 3 of the Representation of the People Act, 1867, from being registered as a voter for the county as a sixty years' tenant of the same property

(z) Reform Act, 1832, 2 & 3 Will. 4, c. 45, s. 24.

(a) *Per WILDE, C.J.*, in *Burton v. The Overseers of Aston* (1849), 8 C. B. on p. 11.

(b) *Capell v. The Overseers of Aston* (1849), 8 C. B. 1. *Burton v. The Overseers of Aston* (1849), 8 C. B. 7.

(c) 30 & 31 Vict. c. 102.

under section 20 of the Reform Act, 1832, because the two Acts of 1832 and 1867 are to be read together according to section 59 of the later Act (d).

The same reasoning applied to section 24 of the same Act would prevent any person entitled to be registered as a voter for a borough in respect of the occupation by him of a dwelling-house under section 3 of the Act of 1867 from being registered as a voter for the county in respect of a freehold interest in the same property, although of sufficient value.

In *Beswick v. Alker* the respondent was placed on the register of voters of a county in respect of "Freehold land and pew rents" which were situate in a borough. He was minister of that church, and as such minister occupied the parsonage house, and was entitled in respect thereof to vote for the borough. His stipend as minister was the residue of "pew rents" after certain payments made thereout by the churchwardens. The case did not show how the pew rents could confer a freehold qualification, but merely reserved the question whether they could, notwithstanding section 24 of the Reform Act, 1832, be severed from the occupation of the house (which was part of the benefice) so as to give a separate qualification for the county, and it was held that there was nothing in that section to prevent them from being so severed, and consequently that the respondent was entitled to have his name upon the county register (e).

The words "land occupied *together with* a house, etc.," in section 24 of the Reform Act, 1832, refer not merely to contemporaneous occupation of the qualifying premises, but also to a user of them for a common purpose. The object of sections 24 and 25 of the Reform Act, 1832, is that a borough voter shall not utilize any land occupied by him as part of the occupation of his house in order to obtain a vote for the county. Thus, where a tenant in occupation of land within a borough of sufficient value to confer a county vote, by a separate taking became tenant and occupier of a dwelling-house within the borough, which was totally distinct and separate from the land, he was held to be entitled to a county vote for the land, and was not restricted to his borough vote for the house, although both tenancies were under the same landlord (f).

The operation of section 24 of the Reform Act, 1832, was not affected by section 28 (14) of the Parliamentary and Municipal

(d) *Chorlton v. Johnson*; *Bunting's case* (1868), L. R. 4 C. P. 426.

(e) *Beswick v. Alker* (1872), L. R. 8 C. P. 265.

(f) *Saunders v. Searson*; *Saunders v. Smith* (1880), 50 L. J. C. P. 117.

Registration Act, 1878. Thus, where a person occupied in a parliamentary borough his own freehold shop, which was capable of conferring a borough vote, and also occupied a dwelling-house in the same borough, and the revising barrister retained the dwelling-house qualification for voting, and noted as to the freehold that the occupier was not entitled to vote for the borough in respect thereof, it was held that the freeholder was not entitled to the county franchise in respect of his freehold (*g*). This decision seems to be in no way affected by section 44 (6) of the Local Government Act, 1894 (*h*).

(2) **Offices.**—As to offices, Lord COKE gives several examples of offices in which a man may have a freehold (*i*). But, properly, it seems that such offices ought to be, as Lord COKE says in the same place, “annexed to or exercisable within or over corporate inheritances,” as the office of steward or bailiff of a manor, or ranger of a forest. And the committee which sat upon the election for Middlesex in 1804, after a long discussion and able argument, laid down the general principle that the holder of an office for life “not having a freehold interest in house or land in right of his office,” had no right to vote. This rule is so consonant to the ancient simplicity of the common law, and so reasonable in itself, that it has been universally approved of and adopted at all county elections which have since taken place (*k*). The first case in which this decision was come to was the case of Selby, clerk of the peace for the county of Middlesex (*l*). The principal arguments made use of on each side of the question are to be found in the case of Ord, a master in Chancery (*m*), and, upon the principle of the determination in *Selby’s case*, the Committee proceeded to strike off the votes of many persons who had voted in right of offices exercised in the courts of Westminster Hall, or whose emoluments consisted of fees from the suitors of those courts; such as the King’s Coroner and Attorney, the Clerk of the King’s Bench Treasury, the Prothonotary of the Common Pleas, the Filacer of the County, and the officers of the Court of Chancery. They also rejected the votes of several persons who exercised certain offices in Westminster Abbey (*n*). And in *Rowledge’s case* the Huntingdon Committee in 1857 allowed the vote of a parish clerk whose salary arose from two swaths of

(*g*) *Chilcott v. Bullen* (1881), 46 L. T. 63. (*k*) *Heyw. Co. El.* 67.

(*h*) 56 & 57 Vict. c. 73.

(*l*) (1804) 2 Peck. 92.

(*i*) Co. Litt. 20a.

(*m*) *Middlesex* (1804), 2 Peck. 93.

(*n*) See a list, *Middlesex* (1804), 2 Peck. 101, 102.



grass to which he was entitled as clerk, although the tenant of the land had for many years previously paid the clerk for the time being forty-two shillings per annum by way of rent in lieu of the grass (o).

The Court of Common Pleas adopted the same principle ; *e.g.*, in 1861, in the case of *Bushell v. Eastes*, they held that a parish clerk, part of whose salary was derived from an ancient due for opening graves, was not entitled to vote (p) ; and, in the case of *Hall v. Lewis*, in the same year, that the six preachers of Canterbury Cathedral, the lay clerks, and the bell-ringer, though all were paid out of the chapter revenues derived from lands vested in the dean and chapter, were not entitled to vote in right of their respective offices (q).

So also in the case of *Kirton v. Dear*, decided in 1869, the court held that the incumbent of a freehold benefice known by the name of St. Andrew's, Bethnal Green, having as such incumbent the freehold of the church vested in him, and the right to certain emoluments, viz., a stipend paid by the Ecclesiastical Commissioners, an annual sum out of Queen Anne's bounty, and fees for marriages, baptisms, and churchings performed at the church, and for burials of parishioners in Bow Cemetery, was not entitled to be registered as a voter for the county in respect of his office, because he had no freehold interest in land in right of it. For, as regarded the freehold of the church, that was not found to be of any value, nor did it produce any profits except the fees for marriages, etc. And as to the fees, they were made on account of some custom or Act of Parliament in return for the personal services of the incumbent, and had no direct connection with the land, nor did they in any way arise out of it (r).

But in *Roberts v. Drewitt*, decided in 1864, the court held that a parish clerk, who was entitled by virtue of his office to one-twelfth part or share in twenty-six acres of freehold, so long as he continued parish clerk, was entitled to be registered as a voter for the county, and to vote in respect of it (s).

Since offices are more usually held for life than for a larger estate, more will be said about offices hereafter in considering estates for life under the second signification of the word " frank tenement," that is to say, with reference to the quantum of interest.

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(o) *Huntingdon* (1857), *Rowledge's case*, Wolf. & D. 199.

(p) *Bushell v. Eastes* (1861), 11 C. B. (N.S.) 106.

(q) *Hall v. Lewis* (1861), 11 C. B. (N.S.) 114.

(r) *Kirton v. Dear* (1869), L. R. 5 C. P. 217.

(s) *Roberts v. Drewitt* (1864), 18 C. B. (N.S.) 48.



(3) **Annuities, Rents-charge, and Fee-farm Rents.**—It is not disputed that annuities, rents-charge, and fee-farm rents issuing out of freehold lands are the subjects of free tenure, but an annuity not charged upon land, even if granted in perpetuity, is merely a personal inheritance (*t*), and although an annuity may be derived out of the profits of real estate, unless it be a charge upon the land, it does not entitle the recipient to vote (*u*).

In *Robinson v. Ainge* decided in 1869, the person claiming to vote was a member of a friendly society, and was under the rules entitled to, and in receipt of, the annual sum of 10*l.* 8*s.* paid by weekly payments “out of the property of the society.” The property of the society included the rents of certain freehold tenements vested in trustees, and also contributions and fines paid by the members, the whole being administered by the treasurer. It was held that the claimant was not entitled to vote, on the ground that he had no freehold interest, either legal or equitable, in the real estate of the society.

A chattel rent-charge is no more a subject of tenure, properly speaking, than any other chattel real, even though it may endure for the life of the grantee; and so, in the case of *Warburton v. The Overseers of Denton*, decided in 1870, where lands were conveyed to trustees for a hundred years upon trust that J. S., his executors and administrators, should receive a yearly rent-charge of 10*l.* out of the profits, it was held that J. S. had no such frank tenement as would entitle him to a vote at county elections (*x*).

But a man may have a frank tenement in a rent issuing out of freehold lands, even where there is no other power of distress to recover arrears than is conferred by the statute 4 Geo. 2, c. 28, s. 5 (*y*). And so also where there is no other effectual power of distress, although by the deed creating the rent-charge an attempt has been made to give a power of distress which is not an effectual power (*z*).

A rent-charge issuing out of certain lands under the terms of the deed whereby it is created must be regarded as issuing out of the whole of such lands, and may not be regarded as issuing only out of a certain part of them, for the purpose of qualifying the recipient to vote.

(*t*) *Stafford v. Buckley* (1750), 2 Ves. Sen. 170.

(*u*) *Robinson v. Ainge* (1869), L. R. 4 C. P. 429.

(*x*) *Warburton v. The Overseers of Denton* (1870), L. R. 6 C. P. 267.

(*y*) *Dodds v. Thompson* (1865), L. R. 1 C. P. 133.

(*z*) *Dawson v. Robins* (1872), 2 C. P. D. 38.

For instance, in *Mills v. Cobb*, decided in 1866, where trustees had lands vested in them upon trust, amongst other things, to pay themselves each an annuity out of the rents and profits of the whole estate, a part only of all the lands was situate in the parliamentary division of the county for which the trustees claim to be registered, and the proportionate share payable out of such part was of sufficient value. But a part again only of such part of the lands, consisting of certain woodlands, was in the actual occupation of the trustees, and the proportionate share payable by such woodlands was not of sufficient value. The court held that the proportionate part of the rent-charge, payable out of all the lands situate in that division for which the trustees claimed to be registered, could not be regarded for that purpose as issuing only out of the woodlands which they retained in their own actual occupation (*a*). A rent-charge issuing out of lands situate in more counties than one, must for the purposes of the franchise be apportioned rateably to the quantity and value of the land in each county. For instance, by a deed dated 1880, one Watson granted to the respondent and his assigns during the joint lives of the grantor and the respondent a yearly rent-charge of 100*l.* charged upon lands situate partly in the county of Northampton, and partly in the county of Leicester. The respondent claimed a vote as a freeholder in Northamptonshire, but although the annual value of so much of the lands as were situate in Northamptonshire was considerably above the necessary amount, yet if the rent-charge were rateably apportioned upon the whole of the lands charged therewith, the proportion issuing out of the lands in Northamptonshire would have been below the necessary amount. It was therefore held that he was not entitled to a vote (*b*).

By sub-section (1) of section 4 of the Representation of the People Act, 1884 (*c*), no person is entitled to be registered as a voter in respect of the ownership of any rent-charge, except the owner of the whole tithe rent-charge of a rectory, vicarage, chapelry, or benefice, to which an apportionment of tithe rent-charge shall have been made in respect of any portion of tithes. But the rights of persons registered at the date of the passing of the Representation of the People Act, 1884 (December 6th, 1884), in

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(*a*) *Mills v. Cobb* (1866), L. R. 2 C. P. 97.

(*b*) *Bearn v. Watson* (1881), Colt. 268.

(*c*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3).

respect of the ownership of any rent-charge are preserved by section 10 of that Act.

A fee-farm rent is a perpetual rent reserved on a conveyance in fee-simple. Fee-farm rents, properly so called, unless granted by the Crown, must have been granted previous to the statute of Westminster III., *Quia Emptores* (*d*), because without a reversion there cannot be a rent-service, and since that statute, a grant in fee-simple leaves the grantor without any reversion left in him (*e*).

A perpetual rent may, however, be reserved on a conveyance in fee-simple, and may be good as a rent-charge, if not as a fee-farm rent (*f*), but the recipient of such a rent, unless registered as a voter in respect thereof on December 6th, 1884, will not be entitled to be so registered in future (*g*).

Redeemed land-tax is equivalent by statute, in certain cases, to a fee-farm rent. By statute (*h*) 38 Geo. 3, c. 60, s. 99, all land-tax redeemed or purchased in pursuance of that Act, except where discharged by the Act, or in cases where other provisions were made by ss. 32 and 40, shall be deemed personal estate, and transmissible as such, and not of the nature of real estate. Accordingly, the Middlesex Committee disallowed the vote of Robert Seamon, as well as many others who had voted for property of the same description (*i*). But the Land Tax Redemption Act, 1802 (*k*), virtually repealed the provisions of the former Act, except as to purchases made before August 24th, 1802, and the purchasers of land-tax after that time are, by section 154, after registry of the contract and certificate, to "be taken to be in the actual seisin and possession of a yearly rent or sum as a fee-farm rent, equal in the amount to the land-tax purchased, free from all charges and deductions whatever, to be issuing and payable out of the manors, messuages, lands, tenements, or hereditaments, whereon the land-tax so purchased was charged, on the same days as such land-tax was payable at the time of the purchase thereof."

The excepted cases in the former Act (*l*) are by section 32, which provides that where sales of lands have been made by persons in possession, but not having the absolute interest to a greater amount than the value of the land-tax to be redeemed, the surplus shall be invested in the bank in the Accountant-General's

(*d*) 18 Ed. 1, stat. 1 (1290).

(*e*) Co. Litt. 143b, Harg. n. 5.

(*f*) *Bradbury v. Wright* (1781), 2 Doug. 624.

(*g*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 10.

(*h*) Land Tax Perpetuation Act, 1798.

(*i*) (1804) 2 Peck. 91.

(*k*) 42 Geo. 3, c. 116.

(*l*) 38 Geo. 3, c. 60.

name, and may be applied under an order of the Court of Chancery, in the purchase of land-tax, which shall be deemed of the nature of real estate, and go as the estate sold would have done. And by section 40, which provides that trust property, directed to be laid out in the purchase of real estate, may be laid out in the purchase of land-tax, and in that case shall be deemed to be of the nature of real estate, and go as real estate purchased with the money would have done.

An example of a vote claimed in respect of redeemed land-tax, under 42 Geo. 3, c. 116, s. 154, occurs in *Cooper v. Ashfield* (m), which is reported upon the point of the proper description of such qualification.

(4) **Commons.**—Commons in gross may be the subjects of tenure, and have been held to be tenements within the 13 & 14 Car. 2, c. 12, for the purpose of conferring a settlement (n), but Dalton says that “he which hath no other freehold than common of pasture, though that be to the value of forty shillings per annum, yet he may be no chooser of the knights of Parliament” (o); and Serjeant Heywood adopts that statement (p).

(5) **Advowsons.**—Advowsons, whether appendant to a manor or in gross, may be the subjects of tenure (q), but Dalton says that “he that hath no other freehold but advowson of churches, though they be of the value of forty shillings by the year, yet thereby he hath no such sufficiency, nor such freehold lands or tenements, as that thereby he may be a chooser of the knights of Parliament” (r); and this statement also is adopted by Serjeant Heywood. It has been said that the reason why an advowson will not constitute a good qualification is that it is incapable of yielding an annual profit so as to enable an annual value to be placed upon it (s).

(6) **Franchises.**—A franchise is legally a tenement (t). Franchise and liberty are synonymous terms; and their definition is a royal privilege, or branch of the king’s prerogative, subsisting in the hands of the subject. The kinds of them are various, and almost infinite (u). Amongst them are, “to have a fair or

(m) 28 L. J. C. P. 35.

(n) *Rex v. Hollington* (1802), 3 East, 113; *Rex v. Dersingham* (1798), 7 T. R. 671.

(o) Dalt. Off. Vic. 333.

(p) Heyw. Co. El. 62.

(q) Co. Litt. 85a. Perk. 116. 2 Bl. Comm. 17. *Gully v. Bishop of Exeter* (1827), 4 Bing. 290.

(r) Dalt. Off. Vic. 333.

(s) Hudson on Elections, 68; Gifford on Elections, 53.

(t) 3 Bl. Comm. 17.

(u) 2 Bl. Comm. 37.



market; with the right to take toll either there or at any other public place, as at bridges, wharfs, or the like; which tolls must have a reasonable cause of commencement (as in consideration of repairs or the like), else the franchise is illegal and void; or to have a forest, chase, park, warren, or fishery, endowed with privileges of royalty" (v).

Tolls at the Common Law include market tolls, which were probably, in their origin, in all cases connected with the right of the soil. Whether a market toll in gross would give a right to vote is perhaps doubtful. It was held that a lessee of such toll was not rateable to the poor rate in respect of the occupancy thereof (x). Stallage is a toll paid for the liberty of placing stalls on the soil; picage is for liberty to pick holes for posts for the stall. These are inseparably incident to the soil (y). Tolls authorized to be taken by an Act of Parliament in respect of cattle brought into a market for sale differ from stallage, and ought not to be assessed to the poor rate (z). Such tolls would probably not confer the right to vote.

At the Common Law toll for passage over a ferry, bridge, etc., are either toll thorough or toll traverse (a). Toll thorough is a payment for the right to pass over land not in the ownership of the person claiming the toll, and it is necessary to prove some consideration for it, e.g., the repair of the bridge. Toll traverse is a sum demanded for passage over the land of the individual claiming the toll, and no consideration need be shown for it. Such toll is necessarily of a real nature, and the owner is rateable to the poor rate in respect thereof (b).

By certain Acts of Parliament tolls have been created in respect of passage over certain bridges which are not the subjects of tenure, nor incident to the soil, but the grantees have only a kind of easement therein.

Shareholders in old Putney Bridge, built under local Acts (c), whereby the rights of proprietors in the ancient ferry were vested in trustees with power to the trustees to convey the surplus tolls, after providing for the expenses of repairs, etc., to the shareholders

(v) 2 Bl. Comm. 38.

(x) *Rea v. Bull* (1816), 5 M. & S. 221.

(y) *Hedley v. Welhouse* (1598), Serjt. Moore's Rep. 474.

(z) *Reg. v. Caswell* (1872), L. R. 7 Q. B. 328.

(a) See per WILLES, J., in *Brecon Markets Co. v. Neath and Brecon Railway Co.*, 41 L. J. C. P. on p. 262.

(b) *Reg. v. Marquis of Salisbury* (1838), 8 Ad. & Ell. 716.

(c) 12 Geo. 1, c. xxxvi. and 1 Geo. 2, st. 2, c. xviii.



in perpetuity, were held not entitled to vote in respect of their shares of such tolls (*d*).

And, with respect to the same tolls, the Thames Navigation Act, 1870 (*e*), was held in no respect to have altered the nature of the interest which the holders of shares in the bridge took therein under the former Acts (*f*).

"A forest is properly the same thing with a chase when in the hands of a subject, for it is then subject to the common law, and not to the forest laws. But a chase differs from a park in that it is not enclosed, and also in that a man may have a chase in the land of another, being indeed the liberty of keeping beasts of the chase or royal game therein, protected even from the owner of the land, with a power of hunting them thereon. A park is an enclosed chase, extending only over a man's own grounds. The word park indeed properly signifies an inclosure; but yet it is not every field or common which a gentleman pleases to surround with a wall or paling, and to stock with a herd of deer, that is thereby constituted a legal park: for the king's grant, or at least immemorial prescription, is necessary to make it so. Though now the difference between a real park and such enclosed grounds is not in many respects very material; only that it is unlawful at the common law for any person, except he have a franchise, to kill any beasts of park or chase therein" (*g*).

Free-warren consists in the exclusive right to preserve and kill fowls or beasts of warren; and such beasts are hares, conies, and roes; the fowls are either campestres, as partridges, rails, and quails, but not grouse (*h*); sylvestres, as woodcocks and pheasants; aquatiles, as mallards and herons (*i*). And so Dalton says: "If a man hath free-warren of conies the which *communibus annis* is worth forty shillings by the year, this is a sufficient freehold" (*k*). Free warren of conies has been held a tenement for the purpose of conferring a settlement (*l*).

Free fishery is also considered to be a royal franchise, and it differs from a "several fishery, because he that hath a several fishery must also be (or at least derive his right from) the owner of

(*d*) *Tepper v. Nicholls* (1864), 18 C. B. (N.S.) 121.

(*e*) 33 & 34 Vict. c. cxlix.

(*f*) *Wadmore v. Dear* (1871), L. R. 7 C. B. 212.

(*g*) 2 Bl. Comm. 38.

(*h*) *Duke of Devonshire v. Lodge* (1827), 7 B. & C. 36.

(*i*) Co. Litt. 233.

(*k*) Dalt. Off. Vied. 333.

(*l*) *Kinver v. Stone* (1726), 1 Stra. 678; *Rex v. Piddletrenthide* (1790), 3 T. R. 772. See also *Earl Beauchamp v. Winn*, L. R. 6 H. L. 223.

the soil, which in a free fishery is not requisite, for a free fishery is the exclusive right of fishing in a public river or arm of the sea" (*m*). And it was the opinion of BULLER, J., that a free fishery "was a tenement for the purpose of conferring a settlement" (*n*).

(7) **Profits, Tithes, etc.**—Profits appender out of lands and the like include many things which may be taken from the soil of another. And Dalton says that "if a man make forty shillings by the year (*communibus annis*) of his wood sales, cole mines, tythes impropriate, or the like, being his freehold, these are sufficient" (*o*), *i.e.*, to confer a vote. At the common law, tithes could not be in the hands of a lay person (*p*). But since the statute 27 Hen. 8, c. 28, after the dissolution of the monasteries, tithes must be in the hands of lay impropriators, and were deemed to be the subjects of tenure (*q*). The commutation of tithes into tithe rent-charge under the Tithe Acts, 1836 to 1891 (*r*) has, however, rendered all such questions of purely antiquarian interest in respect of rights to vote. The right to be registered as a voter and to vote in respect of tithe rent-charge has already been referred to *ante*, p. 25.

(8) **Easements.**—Easements are not the subject of tenure, *per se*, because they cannot exist in gross (*s*), but only as ancillary to the enjoyment of land; and they cannot, even if it were possible for them to exist in gross, be estimated at an annual value, for it is part of the definition of an easement that it is a "privilege without profit" (*t*).

(9) **Pew Rights.**—There have been, however, cases in which claims have been made to be registered as voters, and to vote in respect of pew-rights created by special Acts of Parliament, because those Acts are expressed in terms properly applicable only to things that lie in tenure, for the purpose of applying to such pew-rights incidents of perpetuity in possession which would apply to things that lie in tenure, but not to pew-rights, at the common law. As regards pews in the body of a church, at the

(*m*) 3 Bl. Comm. 38. (*n*) *Rex v. Old Alresford* (1786), 1 T. R. 361.

(*o*) Dalt. Off. Vic. 333.

(*p*) *Sherwood v. Winchcomb* (1593), Cro. Eliz. 293.

(*q*) Co. Litt. 159a; Dyer, 83b; *Rex v. Skingle* (1718), 1 Stra. 100; *Rex v. Ellis* (1816), 3 Price 323.

(*r*) 6 & 7 Will 4, c. 71; 7 Will. 4 & 1 Vict. c. 69; 1 & 2 Vict. c. 64; 2 & 3 Vict. c. 32, 3 Vict. c. 15; 5 & 6 Vict. c. 54; 9 & 10 Vict. c. 73; 10 & 11 Vict. c. 104; 23 & 24 Vict. c. 93; 36 & 37 Vict. c. 42; 41 & 42 Vict. c. 42; 48 & 49 Vict. c. 32; 49 & 50 Vict. c. 54; 54 & 55 Vict. c. 8.

(*s*) *Rangleley v. Midland Railway Co.* (1868), L. R. 3 Ch. App. 306; *Hawkins v. Rutter*, [1892] 1 Q. B. 668; *Rymer v. McIlroy*, [1897] 1 Ch. 528.

(*t*) See *Termes de la Ley*. Tit. Easement; *Constable v. Nicholson* (1863), 14 C. B. (N.S.) 230.

common law the freehold of a church is in the parson, and the disposal of all seats in *nave ecclesie* belongs to the ordinary, although an inhabitant of the parish may have a right to the sole and exclusive enjoyment of a pew, as appurtenant to a house in the parish, which right he may claim by faculty or prescription (*u*). And the remedy for enforcing such a right was by action upon the case for disturbance, and not in trespass (*x*). But in the following cases claims were made to vote in respect of pew-rights under special Acts, as above mentioned, upon the ground that by those Acts the freehold and soil of the pew was vested in the claimants.

In *Hinde v. Chorlton*, decided in 1866, an inhabitant of the parish of Prestwich-cum-Oldham claimed to be entitled to vote in respect of a freehold pew in the body of the church. The church had been rebuilt under the provisions of a private Act (*y*), whereby the trustees appointed for that purpose were empowered, amongst other things, to sell the fee simple and inheritance of such of the pews in the body of the church, when rebuilt, as were not otherwise appropriated in pursuance of the Act, to any persons being inhabitants of the parish; and it was provided that after conveyance by the trustees such pews should be vested in the purchasers, their heirs and assigns for ever, and might be conveyed by them to any other person being an inhabitant of the parish; but if such pews came by descent to any person not being an inhabitant of the parish, then they were to vest again in the trustees. The claimant being an inhabitant of the parish had purchased his pew from a person to whom it had been conveyed by the trustees under the powers conferred by the Act. It was held that the claimant had no right to the soil and freehold of the pew, but only, as WILLES, J., put it, "a statutory right to worship according to law in a particular part of the church;" that, even if he could have had a right to the soil and freehold by the terms of the grant, the freehold was not in the trustees who purported to convey it; and lastly, even supposing that difficulty had been got over, that the interest which the claimant took was not of sufficient value (*z*).

In *Brumfitt v. Roberts*, decided in 1870, a person deriving title through a subscriber to the church of St. Mark, Duke Street,

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(*u*) Com. Dig. Tit. Esglise. (G.) 1; *Mainwaring v. Giles* (1822), 5 B. & Ald. 356.

(*x*) *Stocks v. Booth* (1786), 1 T. R. 430.

(*y*) 5 Geo. 4, c. lxiv.

(*z*) *Hinde v. Chorlton* (1866), L. R. 2 C. P. 104.

Liverpool, claimed to be registered as a voter and to vote at the county elections in respect of a freehold pew in that church. The church was established under 56 Geo. 3, c. lxx., whereby, after reciting that the subscribers had purchased the freehold inheritance thereof in fee simple, trustees, appointed for the management of the temporal affairs of the church, were empowered to sell and convey, for the purpose only of attending Divine service, pews not otherwise appropriated under the Act to persons at the time of such sale inhabitants of the parish. And by a later private Act (*a*), after reciting that doubts had arisen as to the estate and interest which subscribers and proprietors took in the pews, it was enacted that the fee simple and inheritance in the said pews should be vested in the subscribers, and proprietors for the time being, their heirs and assigns for ever. It was held that the claimant had not under either of the Acts an interest in land, but an interest only of a peculiar nature, created by the Acts, and more in the nature of an easement (though there were attached to it incidents of perpetuity of possession, which could only be attached to such a right by the power of legislation), and that, therefore, the claimant was not entitled to be registered in respect of such interest (*b*).

In *Greenway v. Hockin*, decided in the same year, a person who derived title through a subscriber to the rebuilding of St. George's Chapel, East Stonehouse, claimed to be registered in respect of a freehold pew in that chapel. The chapel, a very ancient building, had been rebuilt under a public Act (*c*), whereby trustees appointed for the rebuilding were empowered to set out and appropriate certain of the pews unto or for the several persons who should subscribe money towards the new building, and such pews should be vested in such persons, their heirs and assigns, for ever. It was held upon the authority of *Brumfitt v. Roberts*, and *Hinde v. Chorlton*, above cited, that the claimant was not entitled to be registered in respect of the pew (*d*).

Pews in the chancel or aisles of a church may be the subjects of property otherwise than as appurtenant to a house in the parish, for the soil and freehold of the chancel or aisles may be in a private person (*e*). It is conceivable, therefore, that a man may be entitled to vote at the elections of knights of the

(*a*) 2 & 3 Vict. c. xxxiii. (*b*) *Brumfitt v. Roberts* (1870), L. R. 5 C. P. 224.

(*c*) 27 Geo. 3, c. 17.

(*d*) *Greenway v. Hockin* (1870), L. R. 5 C. P. 235.

(*e*) *Churton v. Frewen* (1866), L. R. 2 Eq. 634; *Duke of Norfolk v. Arbutnot* (1880), 5 C. P. D. 390.



shire in right of the freehold of a chancel or aisle, or part of a chancel or aisle.

The subject of statutory tolls in the nature of easements has been already noticed (*ante*, p. 28).

**(10) Shares in Companies.**—Shares in companies possessed of real estate are not tenements, for the individual shareholders have nothing in the real estate but merely a right to participate in the profits resulting from the common undertaking, whatever may be the subjects by means of which those profits are made (*f*).

In some of the earlier common undertakings, however, before the invention of joint stock companies, the individuals having shares in the undertaking had an interest in the real estate, and that interest was a subject of tenure as in the case of shares in the River Avon Navigation (*g*) and New River (*h*).

## 7. FREEHOLD INTERESTS.

As to the second signification of the expression “frank tenement,” that is to say, in respect of the quantum of the estate held by the tenant, there does not necessarily exist any definite relation between the nature of the tenure and the quantum of the estate; but it was the invariable fact that free tenure at the common law was always associated with estates not falling below an interest equal to the life of the tenant, or of some other person, at the least.

A convenient division of freehold interests for our present purpose is into freeholds of inheritance and freeholds not of inheritance.

It is to be observed that such interests exist by the common law and also in contemplation of equity.

## 8. LEGAL FREEHOLDS.

Beginning, therefore, with legal interests, because equity follows the law in respect of the different classes into which such interests may be divided, it is proposed to consider subsequently the corresponding equitable estates.

**(1) Freehold of Inheritance.**—Freehold of inheritance may be either in fee simple or modified.

**(a.) Fee Simple.**—Tenant in fee simple is he which hath lands or tenements to hold to him and his heirs for ever (*i*). A man

(*f*) *Bligh v. Brent* (1837), 2 You. & Coll. 268; *Bradley v. Holdsworth* (1838), 3 M. & W. 422.

(*g*) *Buckeridge v. Ingram* (1795), 2 Ves. 652.

(*h*) *Drybutter v. Bartholomew* (1723), 2 P. Wms. 127.

(*i*) Litt. s. 1.

cannot have a more large or greater estate of inheritance than fee simple (*k*). It seems hardly necessary to add that the estate of inheritance must be created by the act of a person capable of creating it: thus, where a married woman seised of freehold houses to her separate use conveyed the same by deed before the passing of the Married Women's Property Act, 1882, to her husband in fee simple, it was held that such conveyance did not give him a title to the property so as to qualify him to be registered as an elector in respect of it (*l*), which seems to be a decision of doubtful authority.

(*b*.) *Modified Fees*.—At the common law a fee may be modified by being limited upon a condition, *e.g.*, to the heirs of the body of the donee, either generally or of a special class. The Statute of Westminster II. (*m*) converted all such conditional fees, so far as the present subject is concerned, into estates tail, for the word “tenements” “is the only word which the said Statute of Westminster II., that created estates tail, useth, and it includeth” (as Lord COKE says) “not only all corporate inheritances which are or may be holden, but also all inheritances issuing out of any of those inheritances, or concerning or annexed to or exercisable within the same, though they lie not in tenure, therefore, all these without question may be entailed. As rents, estovers, commons, or other profits whatsoever granted out of land, or uses, offices, dignities which concern lands or certain places, may be entailed within the said statute because these savour of the realty” (*n*). And, owing to the existence of the statute, further modifications of fees may exist, as (1) base fees, that is to say, fees depending by operation or construction of law upon the continued existence of issue inheritable under an entail previously vested in another person, *e.g.*, if tenant in tail were to make an assurance insufficient to bar the remainder or reversion upon the estate tail, but sufficient to bar the issue in tail. (2) Determinable fee, that is to say, an estate continuous with a base fee as above defined, but created by express limitation, and not arising by operation or construction of law. (3) Qualified fee, that is to say, limited to a man and the heirs of any ancestor in the paternal line whose heir he is (*o*).

(*k*) Litt. s. 11.

(*l*) *McKillop v. Griffith*, Saint R. C. 80; but see *Taylor v. Meads* (1865), 34 L. J. Ch. 203; *Adams v. Gamble* (1861), 12 Ir. Ch. Rep. 102; *Pride v. Bubb* (1871), L. R. 7 Ch. 64. “A married woman may pass her separate real estate by deed or will as a *feme sole*.”—*Per* Lord HATHERLEY, L. R. 7 Ch. on p. 69.

(*m*) 13 Ed. 1, c. 1, De Donis.

(*n*) Co. Litt. 19 b.

(*o*) See Challis on Real Property, 2nd ed., p. 241 *et seq.*

(2) **Freeholds not of Inheritance.**—Freeholds not of inheritance are either for the life of the donee or *pur auter vie*, or for more lives than one, or of three kinds equal to a life interest, as the interests of tenant in tail after possibility of issue extinct, tenant by the curtesy of England, and tenant in dower.

(a.) *Tenant in Tail after Possibility.*—"Tenant in fee taile after possibility of issue extinct is where tenements are given to a man and to his wife in especiall taile, if one of them die without issue, the survivor is tenant in taile after possibility of issue extinct. And if they have issue, and the one die, albeit that during the life of the issue the survivor shall not be said tenant in taile after possibility of issue extinct; yet if the issue die without issue, so as there be not any issue alive which may inherit by force of the taile, then the surviving party of the donees is tenant in taile after possibility of issue extinct" (p).

"And he is called tenant after possibility of issue extinct, because by no possibility can he have any issue inheritable to the same estate taile. But if a man giveth land to a man and his wife, and to the heirs of their two bodies, and they live till each of them be an hundred yeeres old, and have no issue, yet do they continue tenant in taile, for that the law seeth no impossibilitie of having children. But when a man and his wife be tenant in especiall taile, and the wife dieth without issue, there the law seeth an apparent impossibility that any issue that the husband can have by any other wife should inherit this estate" (q).

(b.) *Curtsey.*—"Tenant by the curtesie of England is where a man taketh a wife seised in fee simple, or in fee taile generall, or seised as heir in taile especiall, and hath issue by the same wife, male or female, born alive, albeit the issue dieth or liveth, yet if the wife dies, the husband shall hold the land during his life by the law of England" (r).

Notwithstanding the Married Women's Property Act, 1882 (s), a husband is still entitled on the death of his wife to an estate by the curtesy in her undisposed of real estate (t), although the husband no longer takes an interest during the life of the wife in her real estate *jure mariti* where the marriage has taken place after January 1st, 1883.

(p) Litt. s. 32.

(q) Co. Litt. 28a. *Jee v. Audley* (1787), 1 Cox 324. See also *In re Wood*, [1894] 3 Ch. 381.

(r) Litt. s. 35.

(s) 45 & 46 Vict. c. 75.

(t) *Hope v. Hope*, [1892] 2 Ch. 366.

(c.) *Dower*.—Tenant in dower is, where the husband of a woman married on or before January 1st, 1834, dies having been seised in deed or in law at any time during the coverture of a legal estate of inheritance in possession in fee or in tail in lands or tenements, to which issue of the wife whether born or not might by any possibility inherit; for then she takes as her dower the third part of all the lands and tenements of which he was so seised for the term of her natural life, unless her dower has been barred by jointure or adultery under the Statute of Westminster II. (u) or released by a deed acknowledged with her consent (v), or has been lost by a decree for dissolution of her marriage under the Matrimonial Causes Acts, although on the ground of her husband's misconduct (x).

And where the husband of a woman married after January 1st, 1834, dies seised of or entitled to any estate, whether legal or equitable, of or equal to an estate of inheritance in possession, or any right of entry or action in or for such an estate in lands or tenements, such woman takes as her dower the third part of all such lands or tenements, unless barred by jointure, or under the Statute of Westminster II., or by the absolute disposal of such lands by her husband by deed or will, or by a declaration to bar dower, or by devise by him of any estate or interest in such lands for her benefit under the Dower Act (y).

Although widows entitled to dower could not themselves vote by reason of their sex, yet if they married again their second husbands could vote in respect of their interest *jure mariti* in the lands or tenements to which the widows were so entitled, provided the lands were of the required value and all other necessary conditions were fulfilled, unless the second marriage had taken place after January 1st, 1883.

Questions formerly arose not unfrequently at county elections upon the rights of persons, who had married widows entitled to dower, to vote where the dower had not been set out by metes and bounds, as was necessary for the perfect assignment of dower of things divisible at the common law. In these cases the practice was pretty general to exclude such persons from voting and this was sanctioned in the *Gloucestershire* case in 1777. But the Parliamentary Elections Act, 1780 (z), s. 12, put an end to all such questions

(u) 13 Ed. 1, st. 1, c. 34; see *Hethrington v. Graham* (1829), 6 Bing. 135; *Woodward v. Dowse* (1861), 10 C. B. (N.S.) 722; *Bostock v. Smith* (1864), 34 Beav. 57.

(v) See Litt. ss. 36—53, and the Fines and Recoveries Act, 1833 (3 & 4 Will 4, c. 74).

(x) *Frampton v. Stevens* (1882), 28 Ch. D. 164.

(y) 3 & 4 Will 4, c. 105, ss. 4, 6, 7, 8.

(z) 20 Geo. 3, c. 17.



in most cases, for it enacted that such setting out should not be necessary to entitle the second husband to vote where the dower was of the freehold estate of which the first husband died seised or possessed. This Act did not extend to cases where the dower was of such estate as the first husband had been seised of, but had conveyed away or otherwise disposed of in his lifetime. But since 1834, by the Dower Act (*a*) dower is barred by an absolute disposal of the estates by the husband during his lifetime.

And now, since the Married Women's Property Act, 1882 (*b*), the husbands, by marriages subsequent to the passing of the Act, of widows entitled to dower will not have any interest in such estates sufficient to enable them to vote at all, as freeholders or otherwise.

(*d.*) *Life Estates*.—Tenant for life, the lowest description of freeholder, is where a man holds lands or tenements for the term of his own life, or of another person (and then he is called *tenant pur auter vie*), or for more lives than one. This estate may be created either by express words or by a general grant without words of limitation; and such grant, or a grant for term of life, without mentioning of whom, shall be an estate for the life of the grantee; and so of the declaration of a trust. But though, generally speaking, such an estate will enure for the life of the grantee, there are some estates, deemed estates for lives, which may be determined before the life for which they are granted expires; as if an estate be granted to a man "so long as the grantee dwell in such an house, or so long as he pay forty shillings, or until the grantee be promoted to a benefice, or for any like incertaine time, which time, as Bracton saith, is *tempus indeterminatum*; in all these cases, if it be of lands or tenements," these estates are reckoned in judgment of law estates for life, because they may by possibility last for life (*c*).

For instance, in the case of *Beeson v. Burton*, decided in 1852, the court held that a freeman of the borough of Leicester holding land under the provisions of a private Act (*d*), by allotment from the deputies of the resident freemen at an annual rent for "so long as such holder should be willing to hold the same, and should pay the annual rent and conform to the orders and regulations to be made from time to time by the said deputies," had a freehold interest for life, and was entitled to be registered as a voter and to vote at elections for the county in respect of it (*e*).

(*a*) 3 & 4 Will. 4, c. 105, s. 4.

(*b*) 45 & 46 Vict. c. 75.

(*c*) Co. Litt. 42.

(*d*) 8 & 9 Vict. c. vi.

(*e*) *Beeson v. Burton*, (1852) 2 C. B. 647.

If the event upon which an estate of uncertain duration, which may by possibility last for life, is to determine, depends upon the will of any person other than the grantee of the estate, there is a difference between the nature of an estate determinable at the will of a stranger and an estate determinable at the will of the grantor or his successors in title. An estate of uncertain duration which may by possibility last for life, if determinable at the will of a stranger, constitutes a freehold for life (*f*), but an estate of uncertain duration which may by possibility last for life, if determinable at the will of the grantor or his successors in title, is not a freehold.

For instance, in the case of *Davis v. Waddington*, in 1844, the principal and inmates of Jesus Hospital, Rothwell, in the county of Northampton, claimed to be registered as voters and to vote at elections for the county in respect of their estate in the premises occupied by them in the hospital, and it appeared that they were nominated for an indeterminate period by the governors of the institution, a body corporate by letters patent of 38 Eliz., and successors in title to the founder, and were also removable at the discretion of the governors. The court therefore held that they were not entitled to an estate of freehold, and so not entitled to be registered in respect of their interest in the premises (*g*).

And so also in the case of *Fernie v. Scott*, decided in 1871, it was held that a burgess of the borough of Stafford holding land as tenant to the corporation at a yearly rent for an uncertain time, but subject to the terms of a certain bye-law whereby the council of the corporation might determine the occupation at their own mere will and pleasure, had not a freehold, and was not entitled to be registered as a voter for the county in respect of his interest in the land in question (*h*).

In the later case, however, of *Ashworth v. Hopper*, decided in 1875, it was held that the *cestuis que trustent* of a freehold rent-charge vested by deed in trustees had an equitable estate of freehold in their respective shares, notwithstanding a power of sale reserved to the trustees by the deed, but exercisable only for the benefit of the *cestuis que trustent*, and not for that of the trustees; and that the *cestuis que trustent* were entitled to be registered in respect of their interest accordingly (*i*).

The duration of an estate or appointment created or appointed

(*f*) See Serjeant Manning's notes in 2 M. & G. 19, and 7 M. & G. 45.

(*g*) *Davis v. Waddington* (1844), 7 M. & G. 37.

(*h*) *Fernie v. Scott* (1871), L. R. 7 C. P. 202.

(*i*) *Ashworth v. Hopper* (1875), 1 C. P. D. 178.

in general terms is a conclusion of law to be decided by the revising barrister upon the evidence before him; for instance, in the case of the office of a dissenting minister to which is attached an interest in house or land for so long as the office is filled by him, the terms of the deed of trust of the house or land may show that the interest of the minister is an estate for life, or additional evidence may be required as to the usage in respect of the duration of the office, and particularly whether any agreement or understanding was entered into between the minister and the persons for the time being members of the congregation attending the meeting-house and subscribing to its support, touching the duration of the ministry of the minister. According to the result of such inquiry would be the conclusion of the revising barrister, and unless the facts necessarily prove that his conclusion was wrong, the court will not reverse his decision (*k*).

In *Burton v. Brooks*, decided in 1851, the minister himself gave evidence that his appointment was general and for life, and by the terms of the deed of trust of the house and land annexed to his office upon the first appointment to such office it appeared that the minister for the time being had an equitable estate for life. The court refused to reverse the decision of the revising barrister that the appointment of the minister was for life, and that he had an equitable freehold for life under the trusts of the deed.

In *Collier v. King*, decided in 1861, the minister himself gave evidence that his appointment was for life, and one of the deacons, who had been a member of the congregation for thirty-five years, gave evidence that the appointment was made in the usual manner and was, in his opinion, for life. But the terms of the deed of trust of the house and land attached to the office were perfectly general, being merely "to permit and suffer the premises to be held, used, and occupied by the minister for the time being for his place of abode and residence." The court refused to reverse the decision of the revising barrister that the minister had not an estate of freehold in right of his office in the house and premises so occupied by him.

(*e.*) *Elegit*.—Tenant by elegit, although he has an uncertain interest, and is said to hold land *ut liberum tenementum* until his debt is paid, yet in truth, as Lord COKE says, has no freehold, but a chattel which shall go to his executors. He was said to hold *ut liberum tenementum* because he had the real action to

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(*k*) *Burton v. Brooks* (1851), 11 C. B. 41; *Collier v. King* (1861), 11 C. B. (N.S.) 14.

recover the land as the tenant of freehold had, and in that respect "had a similitude of a freehold, but *nullum simile est idem*" (*m*).

### 9. EQUITABLE FREEHOLDS.

(1) **Before the Reform Act, 1832.**—The statute 8 Hen. 6, c. 7, was always construed previously to the year 1696 (*n*) strictly according to the common law, notwithstanding that even at the date of the passing of that statute, in 1429, equitable interests were well known. In the year 1429 conveyances to uses had long been prevalent, for Sir THOMAS FROWIKE, Chief Justice of the Common Pleas, is reported to have said that at the time of the making of the statute 2 Hen. 5, c. 3, which would be in 1415, the greater part of the land in England was in feoffments *sur confidence* (*o*). Lord COKE repeats Sir THOMAS FROWIKE's words (*p*). And the earliest published applications to the Chancellor to protect uses occur in the reign of Richard II. between 1393 and 1399 (*q*). In the reign of Henry VI. such applications became so common that the jurisdiction of the Court of Chancery in relation thereto began to be systematized and to follow regular rules (*r*).

But, notwithstanding the prevalence of uses at the time of the passing of the statute 8 Hen. 6, c. 7, that statute was confined by those tribunals by which it was construed to persons having the legal estate in freehold lands and tenements of the required value. Whether this was always so may be open to doubt, because, if it was, the greater part of the persons beneficially interested in land in England must have been disqualified. And this is strongly illustrated by Chief Justice FROWIKE's remarks upon the statute 2 Hen. 5, c. 3, stat. 2, in the passage above referred to. For that Act provided that jurymen in certain cases should be persons having lands or tenements of the annual value of forty shillings above reprises, a qualification somewhat similar to that required by 8 Hen. 6, c. 7, with regard to voters at the

(*m*) Co. Litt. 43b, cited in *Spencer v. Harrison* (1879), 5 C. P. D. at p. 104.

(*n*) The date of the passing of Lord Somers' Act (7 & 8 Will. 3, c. 25).

(*o*) Y. B. 15 Hen. 7, fol. 13b. The date of this case in the Year Book is probably a mistake; it may be one of the cases for the missing years, 18 & 19 Hen. 7, for it is said to be the first case that FROWIKE argued after he was made Chief Justice, and the date of his elevation to that office was September 30th, 1502. See Foss's Judges, vol. v. p. 52.

(*p*) Co. Litt. 272a.

(*q*) Select Cases in Chancery, 1364–1471. Edited for the Selden Society by W. P. Baildon. Cases Nos 40, 45, 71, 72, etc. See Pref. pp. xxxvi—xxxix.

(*r*) See Spence, Eq. Jusdon. i. 349.



elections of knights of the shire. And, in referring to the 2 Hen. 5, c. 3, stat. 2, FROWIKE, C.J., says in the report above cited that it was construed by the judges so that *cestuis que usent* were sworn as jurors, on the ground that it could not have been the intention of the Legislature in passing that Act that they should not be so,<sup>(s)</sup> for then there would have been but few men who could have sat upon such juries.

Probably it may have been expected with regard to the qualification of voters that the Statute of Uses (s), which was intended to abolish entirely the application of uses to freehold hereditaments, would restore to *cestui que use* the qualification to vote.

Mortgages appear also to have been common in the reign of Henry VI. (t) but the common law did not recognize any right to the land in the mortgagor after default any more than in the case of *cestui que use* before the Statute of Uses. LITTLETON, writing some five and forty years after the passing of the statute 8 Hen. 6, c. 7, regards a mortgage as a species of estate upon condition (u). The land was conveyed, usually by feoffment, by the debtor to the creditor subject to the condition that on repayment of the loan by a certain day the feoffor (the debtor) might re-enter. On failure to perform the condition the law refused to recognize any further right in the feoffor, and held that the estate was thereupon absolutely vested in the feoffee. The statute 8 Hen. 6, c. 7, being, as we have said, construed strictly, the mortgagee acquired the right to vote as incident to the freehold, which was in him upon condition from the date of the execution of the mortgage, and absolutely from the date of condition broken. It was not established until the reign of Charles I. that, in all cases of mortgage, where the money was actually paid or tendered, though after the day, the mortgage should be considered as redeemed in equity, as it would have been at law on payment before the day (x). But after the idea of an equity of redemption had been worked out, it was, as Lord HARDWICKE says (y), "always considered as an estate in the land" in equity. It is to be observed, however, that there is one case before the passing of the statute 7 & 8 Will. 3, c. 25 (z), which seems to show that the right of the mortgagor in possession to vote, at least in a borough election, may have been recognized

(s) 27 Hen. 8, c. 10 (A.D. 1536).

(t) Spence, Eq. Jusdon. i. 602.

(y) 1 Atk. on p. 604, in the case of *Cusborne v. Searye* (1737).

(z) A.D. 1696.

(u) Litt. ss. 332—339.

(x) Spence, Eq. Jusdon. i. 603.

before that statute. That was the case of *Onslow v. Rapley* (a), which was an action on the case for a false return at the election of members for the borough of Haslemere in 1679. It was tried before Sir FRANCIS PEMBERTON, Lord Chief Justice of England, at the Surrey Assizes, held at Kingston on July 20th, 1681. "The plaintiff's counsel insisted and proved that there voted for him thirteen, having good and unquestionable votes, unto one whereof the defendant's counsel excepted, for that he, before the election, had mortgaged his estate, which the party himself, present in court, denied upon oath, and the court was of opinion it had not been a good objection if true, so long as the mortgager continued the possession, and had the benefit of redemption in him" (b). At length the Legislature, when contests for counties grew more frequent, and the rights of voters were more strictly scrutinised, found it necessary to provide (by statute 7 & 8 Will. 3, c. 25, s. 7) (c), that trust or mortgage estates should not qualify a person to vote, unless such trustee or mortgagee were in actual possession or receipt of the rents and profits; and that the mortgagor or *cestui que trust* in possession might vote, notwithstanding the trust or mortgage.

"It should seem that the intention of the statute 7 & 8 Will. 3, c. 25, s. 7, was simply to transfer the franchise from the owner of the legal estate to the person beneficially entitled, in all cases in which the former, by reason of his not being in the actual possession or receipt of the rents and profits, fell within the prohibitory words, and so as to give the *cestui que trust* (or mortgagor) the right to vote, if he were in possession. The intention appears to have been, that the right to vote should be determined by the possession; but that, whichever might happen to be in possession, there should be as before a vote in respect of the property" (d).

There is, however, one reported case in which a mortgagor not in actual possession was held entitled to vote under this statute, 7 & 8 Will. 3, c. 25 (e).

(2) **Equitable Freeholds after the Reform Act, 1832.**—The provisions of the statute 7 & 8 Will. 3, c. 5, s. 7, with regard to county elections, were re-enacted without repealing that statute, by section 23 of the Reform Act, 1832, (f) in almost the same

(a) Lord Somers' Tracts, vol. viii. p. 271 (2nd edit. 4to. 1812, by Scott).

(b) See Heyw. Bor. El. 240.

(c) A.D. 1696.

(d) Per JERVIS, C.J., delivering the judgment of the court in the case of *Anelay v. Lewis* (1855), 17 C. B. at p. 328.

(e) *Midgheser* (1804), *Chase's case*, 2 Peck. 103.

(f) 2 & 3 Will. 4, c. 45.

words. "The same remarks would apply," says Lord Chief Justice JERVIS, (g) "to this section, which have already been made upon the similar language of the statute of Will. III. but for section 26 of the Reform Act, 1832, which enacted, *inter alia*, that no person should be registered in any year in respect of his estate or interest in any lands, etc., unless he should be in actual possession or receipt of the rents and profits to his own use for six calendar months at least previous to the last day of July in such year." This raised a doubt, which the learned Chief Justice in the same judgment goes on to point out, until a further statute was passed, viz., the Parliamentary Registration Act, 1843 (h), which had the effect of reconciling the two sections of the Reform Act, 1832, above referred to, by declaring that they ought to be construed *reddendo singula singulis*, viz., that mortgagees and trustees who answered the description in section 23, should still be able to vote, provided they also fulfilled the conditions of section 26. The conditions of section 26, therefore, will be considered hereafter (i).

The statute 7 & 8 Will. 4, c. 25, s. 7, still, however, remained unrepealed, although superseded; but it was finally repealed by the Statute Law Revision Act, 1867 (k).

The provisions of section 74 of the Parliamentary Registration Act, 1843, are "that no mortgagee of any lands or tenements shall have any vote in the election of a knight or knights of the shire, or in the election of a member or members to serve in any future Parliament for any city or borough in which freeholders now have a right to vote, for or by reason of any mortgage estate therein, unless he be in the actual possession or receipt of the rents and profits thereof, but that the mortgagor in actual possession or in receipt of the rents and profits thereof, shall and may vote for the same, notwithstanding such mortgage; and that no trustee of any lands or tenements shall in any case have a right to vote in any such election for or by reason of any trust estate therein, but that the *cestui que trust* in actual possession or in receipt of the rents and profits thereof, though he may receive the same through the hands of the trustee, shall and may vote for the same notwithstanding such trust" (l).

The chief alteration thereby effected in regard to the county qualification (for the section applies also to boroughs) is that the

(g) In 17 C. B. at p. 329.

(h) 6 & 7 Vict. c. 18, s. 74.

(i) *Post*, p. 73.

(k) 30 & 31 Vict. c. 59.

(l) 6 & 7 Vict. c. 18, s. 74.

right of a trustee to vote in respect of any trust estate is altogether taken away.

**(3) Modern questions as to Equitable Freeholds.**—But the questions which still arise in relation to the right of *cestui que trust* to vote may be divided into two great classes; first, those cases arising out of words used in the creation of express trusts, in which the question is whether the person claiming to vote has any equitable estate in the lands or tenements which are the subject of the trust or is merely beneficially interested in the rents and profits; and, secondly, cases arising upon constructive trusts, where the question is whether the person claiming to vote answers the description in the statute of "*cestui que trust* in actual possession or receipt of the rents and profits though he may receive the same through the hands of the trustee."

As to the former class of cases, a large number of them relate to charitable trusts.

The class of cases arising out of charitable trusts must not be confounded with the authorities relating to personal disqualification by the receipt of alms which are dealt with hereafter. As Lord Chief Justice ERLE said: "In deciding whether or not a party has an equitable title, it may be material to look at the mode in which the proceeds of the property are applied, to see whether the trustees are doling out the bounty of the grantor to those who are the objects of his charity. But if a man has a freehold estate, legal or equitable, it matters not that the motives of the grantor were of a charitable or benevolent nature, or that the feelings of the grantee should be those of gratitude for an eleemosynary gift. The motives and feelings of neither grantor nor grantee can be permitted to weigh when we are deciding whether or not the grantee took an estate. They are absolutely irrelevant except to the extent I have already intimated. All we have to look at is what the trustees have to do. If they hold the legal estate in trust to receive the profits and pay certain allowances to the beneficiaries, and the latter take nothing but an interest in those allowances, no qualification is created" (*m*).

In the case of *Simpson v. Wilkinson*, decided in 1844, it was held that the parties claiming to vote had an equitable interest of freehold in the lands or tenements which were the subject of the trust. These parties were bedesmen of Burleigh Hospital, Stamford, in the county of Northampton, founded by Lord

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(*m*) 18 C. B. (N.S.), at p. 45, in the case of *Roberts v. Percival* (1864).



Burghley in 1597 by way of feoffment to uses of a rent-charge issuing out of freehold lands and tenements in the county (the hospital not being incorporated under the statute 39 Eliz. c. 5, but presumably endowed by royal licence). Each bedesman was appointed by the heir male of the founder for life, subject to removal for misconduct, and each occupied a separate room, and received a share of the rent of that portion of the hospital not occupied by them but let off by them to others, the whole property of the institution being managed by the warden and bedesmen jointly for their own benefit. It was held that each bedesman had a separate equitable freehold in the rooms assigned to him (n).

This decision was affirmed in the later case of *Roberts v. Percival*, decided in 1864, with regard to the same institution, no additional facts being brought out beyond the fact that in 1846 the warden and bedesmen had sold a part of the hospital premises not separately used to the Midland Railway Company, without the intervention of any other person; the warden and bedesmen executing the conveyance, receiving the purchase money and applying it to their own use in erecting certain buildings in the garden attached to the hospital (o).

In the following cases it was held that the parties claiming to vote took no equitable estate of freehold in the lands or tenements which were the subjects of the trusts, but only an interest in certain allowances to be paid to them out of the rents and profits.

In the case of *Freeman v. Gainsford*, in 1861, the inmates of the Shrewsbury Hospital, Sheffield, in the county of York, which was founded under the will of Gilbert, Earl of Shrewsbury, who devised lands and tenements (*inter alia*) in the county of York to trustees upon trusts to found the hospital and endow it out of the revenues, each inmate being appointed for life by the governing body but removable for misconduct, and being provided with separate accommodation and a weekly stipend paid by the trustees out of the rents and profits of the trust estates, which were managed by the trustees, were held not to have an equitable interest of freehold in the rooms so occupied by them (p).

In *Steele v. Bosworth*, decided in 1864, the inmates of the Bottesford Hospital, in the county of Leicester, founded by the Earl of Rutland in 1692, and by deed of 1762 the lands and

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(n) *Simpson v. Wilkinson* (1844), 7 M. & G. 50.

(o) *Roberts v. Percival* (1864), 18 C. B. (N.S.), 36.

(p) *Freeman v. Gainsford, Shrewsbury Hospital case* (1861) 11 C. B. (N.S.)

tenements thereto belonging vested in trustees upon trust, to receive the rents and profits and thereout to make certain allowances to the inmates, who were nominated for life by the heirs male of the founder but were removable for misconduct, and who had each a separate room assigned to him, were held not to have any equitable interest of freehold in the lands or tenements vested in the trustees of the hospital (*q*).

And in the case of *Simey v. Marshall*, decided in 1872, the younger brethren of the hospital of King James, at Gateshead, in the county of Durham, a corporation consisting of a master and three ancient brethren, in whom the legal estate in the lands belonging to it is vested, being appointed as such younger brethren under an Act of Parliament for life, and removable for misconduct, and not forming part of the corporate body, but receiving certain allowances out of the surplus rents and profits of the lands and tenements belonging to the corporate body through the hands of the master who managed the estates, were held not to have any equitable interest of freehold in the lands and tenements belonging to the corporate body (*r*).

Besides this class of cases arising out of charitable trusts, there is another class of cases relating to shares in partnerships, corporations, and companies possessed of real estate, in which the question is whether the partners, individual corporators, and shareholders have an equitable estate in the lands and tenements, or only a right to participate in the profits of the undertaking.

In the case of *Baxter v. Brown or Newman*, decided in 1845, it appeared that a large number of persons entered into a partnership to build and carry on their respective trades in a mill, and they subscribed money, part of which was appropriated to buy freehold lands, which were conveyed to the use of certain of the partners as trustees, their heirs and assigns, absolutely. Other part of the money was appropriated to building the mill and buying the machinery for it. And by a general deed of partnership the trusts of the land and mill, and all the property of the partnership, were declared to be for the benefit of all the partners in the joint concern as part of the joint stock in trade, and should be considered as personal, and not as real, estate. It was held that all the partners were entitled to vote in respect of their interest in the land and mill, on the ground that the trusts declared by the deed were merely regulations entered into for the

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(*q*) *Steele v. Bosworth* (1864), 18 C. B. (N.S.) 22.

(*r*) *Simey v. Marshall* (1872), L. R. 8 C. P. 269.

better carrying on the joint trade, and were not inconsistent with an equitable seisin of the freehold in the co-partners (*s*).

It may be noticed that Lord St. LEONARDS in another case expressed some dissatisfaction with this case in so far as it decides that the interest of the partners was real and not personal (*t*); but in one report of the case of *Bulmer v. Norris*, decided in 1860, there are some further remarks by Lord Chief Justice ERLE (*u*) with regard to the observations so made by Lord St. LEONARDS.

In *Bulmer v. Norris* the court held that shareholders in a joint stock company, incorporated under the provisions of the Joint Stock Companies Acts, 1856 and 1857 (*x*), had, as individuals, no freehold estate, legal or equitable, in any lands or tenements held by the company; and that the rights of the shareholders were confined to a proportionate share in the profits of the company (*y*).

And immediately after the argument in *Bulmer v. Norris*, but before the judgment in that case was pronounced, the argument in the case of *Acland v. Lewis* was heard, in which judgment was afterwards given following the judgment in *Bulmer v. Norris*.

In *Acland v. Lewis* the facts were that a claim was made by a member of a certain corporation called the Company of Free Fishers and Dredgers of Whitstable to be registered as a voter in respect of his share in the profits of an oyster fishery belonging to and managed by the corporation for their own benefit. The soil and freehold of the fishery was vested in the corporation by Act of Parliament; and the profits, after deducting the expenses of working and management, were divided proportionately amongst and received by the members of the corporation, and the share of each member was of more than the clear yearly value of forty shillings. The court held that the individual members had no freehold estate, either legal or equitable, in the soil and tenements vested in the corporation, and were, therefore, not entitled to be registered as voters in respect of their mere right to participate in the profits (*z*).

These cases were followed by the case of *Bennett v. Blain*, decided in 1863, in which it appeared that the company of

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(*s*) *Baxter v. Brown* (1845), 7 M. & G. 198.

(*t*) 2 De G. Mac. & G. at p. 622, in the case of *Myers v. Perigal* (1852).

(*u*) Hopw. & Phil. at pp. 46, 47. See also in *Watson v. Black*, 16 Q. B. D. at p. 278.

(*x*) 19 & 20 Vict. c. 47, and 20 & 21 Vict. c. 14.

(*y*) *Bulmer v. Norris* (1860), 9 C. B. (N.S.) 19.

(*z*) *Acland v. Lewis* (1864), 9 C. B. (N.S.) 32.

proprietors of the Manchester Corn Exchange, established by deed of settlement in 1857, were provisionally registered under 7 & 8 Vict. c. 110, and therefore not incorporated. By the deed of settlement the land belonging to the company upon which the Corn Exchange was built is vested in trustees for ever upon trusts for the benefit of the company; and the affairs of the company were managed by a committee, including the trustees, who were by means of rents and subscriptions to make profits out of the undertaking, and, after payment of expenses and outgoings, to divide the surplus amongst the shareholders. And the deed contained a declaration that the shares were to be deemed personal estate only. It was held that shareholders had no such interest, either legal or equitable, in the land upon which the Corn Exchange was built, or in the income arising from it, as would enable them to vote in respect of their shares (*a*).

So also in the case of *Freeman v. Gainsford*, decided in 1865, shareholders in the Sheffield Music Hall, a building erected upon land which, together with the building, was vested by deed in trustees, their heirs and assigns, upon trust for themselves with the other proprietors, with power to the trustees to manage the undertaking, and receive the rents and profits, and declare dividends to be divided amongst the proprietors according to their respective shares, were held, upon the authority of *Bennett v. Blain*, above cited, to have no legal or equitable estate in the land or building, but only a right to participate in the profits of the concern (*b*).

And in *Watson v. Black*, decided in 1886, it was held that shareholders in the London Stock Exchange, an association, never incorporated or registered under the Joint Stock Companies Acts or at all, of persons who subscribed money to purchase land, which was bought and vested by deed in trustees, together with the remainder of the subscriptions, upon trusts for the purposes of the undertaking (the land, and the buildings upon it, and the money forming the capital of the undertaking, which was divided into shares transmissible by the terms of the deed as personal estate), every shareholder being registered in respect of his share, and entitled to receive such yearly dividend out of the net profits of the undertaking as might be recommended by the trustees and managers, and such dividends being found as a fact

(*a*) *Bennett v. Blain* (1863), 15 C. B. (N.S.) 518.

(*b*) *Freeman v. Gainsford* (*Sheffield Music Hall Case*) (1865), 18 C. B. (N.S.) 185.



to exceed the value of forty shillings by the year, were not entitled to any such interest, either legal or equitable, in respect of their shares in the land and buildings forming the capital of the undertaking as would enable them to be registered as voters and to vote in respect of such shares (c).

And again in *Harris v. Phillips*, decided in 1890, it was held that the canons residentiary of Lincoln Cathedral, who were entitled under section 25 of the Ecclesiastical Commissioners Act, 1841 (d), to a fixed share in the corporate revenues of the dean and chapter of that cathedral church, were not entitled to be registered as voters and to vote in respect of their shares in the freehold lands of the corporation, on the ground that they were *cestuis que trustent* in possession of or in receipt of the rents and profits of lands held by the dean and chapter as trustees, the court holding that they had only an interest in the profits as members of the corporation aggregate (e).

In the following case the question was whether the person claiming to vote had an equitable estate of freehold in the tenement in respect of which he claimed to vote, or was merely a permissive occupant. But the case seems to come in more properly at this point than elsewhere, because it illustrates the general nature of an estate in equity as distinct not only from an equitable interest in personal property, but also from a common law licence to use real property.

Tenant of chambers in Old Buildings, Lincolns Inn, by admission for life by the society, which is not a corporation, but make their title to the premises under a conveyance from Lord MANSFIELD in 1786 to twenty-four persons (being the Benchers of the Society of Lincolns Inn at that time), their heirs and assigns, for ever, in trust to, and for the only benefit of the society, was held to have an equitable freehold, in respect of which he was entitled to vote (f).

The second great division of cases as to the rights of equitable freeholders to vote includes, as has been said, chiefly cases upon constructive trusts, such as are created by contracts for sale. In these cases, the points are, generally, first, whether by what is called the doctrine of conversion in equity the vendor has become a trustee of the estate for the purchaser, and the purchaser has an equitable interest in the land; and, secondly, whether in

(c) *Watson v. Black* (1886), 16 Q. B. D. 270.

(d) 4 & 5 Vict. c. 39.

(e) *Harris v. Phillips*, [1891] 1 Q. B. 267

(f) *Austey's case, Middlesex* (1804), 2 Peck. 109.

other respects the purchaser answers the description in the statute of *cestui que trust* in actual possession or receipt of the rents and profits, though he may receive the same through the hands of the trustee.

As to the first point, the doctrine of equity in respect of conversion upon a contract of sale may be found conveniently stated by Sir GEORGE JESSEL, M.R. (*g*) as follows: "It appears to me that the effect of a contract of sale has been settled for more than two centuries; certainly it was completely settled before the time of Lord HARDWICKE, who speaks of the settled doctrine of the court as to it. What is that doctrine? It is that the moment you have a valid contract for sale, the vendor becomes in equity a trustee for the purchaser of the estate sold, and the beneficial ownership passes to the purchaser, the vendor having a right to the purchase money, a charge or lien on the estate for the security of that purchase money, and a right to retain possession of the estate until the purchase money is paid, in the absence of express contract as to the time of delivering possession. Now, what is the meaning of the term 'valid contract'? 'Valid contract' means in every case a contract sufficient in form and substance, so that there is no ground whatever for setting it aside as between the vendor and purchaser—a contract binding on both parties. As regards real estate, however, another element of validity is required. The vendor must be in a position to make a title according to the contract, and the contract will not be a valid contract unless he has either made out his title according to the contract, or the purchaser has accepted the title, for however bad the title may be the purchaser has a right to accept it, and the moment he has accepted the title, the contract is fully binding upon the vendor. Consequently, if the title is accepted in the lifetime of the vendor, and there is no reason for setting aside the contract, then, although the purchase money is unpaid, the contract is valid and binding; and, being a valid contract, it has this remarkable effect, that it converts the estate so to say, in equity; it makes the purchase money a part of the personal estate of the vendor, and it makes the land a part of the real estate of the vendee; and, therefore, all those cases on the doctrine of constructive conversion are founded simply on this, that a valid contract actually changes the ownership of the estate in equity. The vendor is treated in all respects as a trustee,

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(g) 2 Ch. D. at pp. 506, 507, in the case of *Lysaght v. Edwards* (1876).

subject, of course, to his right of being paid the purchase money, and his right to enforce his security against the estate. With those exceptions, and his right to rents till the day for completion, he appears to me to have no other rights."

From this statement of the doctrine of conversion, it is plain that the vendor may remain in possession, although a trustee in equity; but, in order to satisfy the terms of the statute (*h*), it must not only appear that the purchaser is regarded in equity as *cestui que trust*, but also that he is "in actual possession, or receipt of the rents and profits, etc."

So where a person who claimed to be entitled to be registered, had entered into a contract for the purchase of freehold land of the necessary value, and had paid the purchase money in full, but according to his own wish no conveyance to him had been executed, and the vendor still remained in possession of the land, and the land was not to let, it was held that the purchaser was not entitled to be registered in respect of his equitable interest in the land, because he was not in the actual possession or receipt of the rents and profits, etc. (*i*).

#### 10. ESTATES OF UNDIVIDED OWNERSHIP.

A freehold may not only be held in severalty, but by two or more in undivided ownership as joint tenants, tenants by entireties of interest, parceners, or tenants in common. The common characteristic of all estates of undivided ownership is that they are held *pro indiviso* or promiscuously.

(1)—**Their several kinds.**—Estates of undivided ownership may be held either in joint tenancy or in coparcenary, or on a tenancy in common.

(a.)—*Joint tenancy.*—"Jointenants are as if a man be seised of certain lands or tenements, and enfeoffeth two or more to have and to hold to them and their heirs, or leaseth to them for term of their lives, or for the life of some other by force of which feoffment or lease they are seised, these be jointenants" (*k*). An estate in tail general cannot be limited in joint tenancy, because there cannot be a single heir of the bodies of the donees. Joint tenants must claim an equal interest by the same title, and in the same right (*l*). Therefore they can only take by purchase, and

(*h*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 74.

(*i*) *Anelay v. Lewis* (1855), 17 C. B. 316.

(*k*) Litt. s. 277, Co. Litt. 180.

(*l*) Co. Litt. 189a, 299b.

under limitations at the common law they must all take simultaneously. But in limitations by way of use or devise this is not so of necessity (*m*). And on the death of either the whole estate is in the others or other by right of survivorship. Jointenants are said to be seised *per my et per tout*, that is to say, each of them holds the whole and yet nothing, nothing by himself separately, but the whole conjointly (*n*).

But at the common law, where the husband and wife are jointly seised of an estate made during the coverture, they are called tenants by entireties of interest, because they are but one person in the eye of the law. It is difficult to say what is the effect of the Married Women's Property Act, 1882 (*o*), upon tenancy by entireties of interest (*p*).

(*b*.) *Co-Parcenary*.—“Parceners are of two sorts, to wit, parceners according to the course of the common law, and parceners according to the custom. Parceners, after the course of the common law, are where a man or woman seised of certain lands or tenements in fee simple or in taile hath no issue but daughters, and dieth, and the tenements descend to the issues, and the daughters enter into the land or tenements so descended to them (*q*). And none are called parceners by the common law but females or the heirs of females, which come to lands or tenements by descent (*r*). Parceners by the custom are where a man seized in fee simple or in fee tail of lands and tenements, which are of the tenure called gavel-kind within the county of Kent, hath issue divers sons and die, such lands or tenements shall descend to all the sons by the custom, and they shall equally inherit” (*s*).

(*c*.) *Tenancy in Common*.—“Tenants in common are they which have lands or tenements in fee simple, fee tail, or for term of life, and they have such lands or tenements by several titles, and not by a joint title, and none of them know of this his severall, but they ought by the law to occupy these lands or tenements in common, and *pro indiviso* to take the profits in common. And because they come to such lands or tenements by several titles, and not by one joint title, and their occupation and possession shall be by law between them in common, they

(*m*) Co. Litt. 188a, and Harg. n. 13 thereon.

(*n*) Co. Litt. 186a. See 7 M. & G. 172 n.

(*o*) 45 & 46 Vict. c. 75.

(*p*) See *In re March*, *Mander v. Harris* (1883), 24 Ch. D. 222. *In re Jupp*, *Jupp v. Buckwell* (1888), 39 Ch. D. 148; *In re Dixon*, *Byram v. Tull* (1889), 42 Ch. D. 306.

(*q*) Litt. s. 241.

(*r*) Litt. s. 254.

(*s*) Litt. s. 265.



are called tenants in common" (*t*). A tenancy in common may arise by express limitation, or by the severance of a jointtenancy, or by the severance other than by partition of the interests of parceners (*u*). And the shares of tenants in common need not of necessity be equal.

**(2) Right to Vote in Respect of Undivided Estates.**—As to the right to vote in respect of estates of undivided ownership, the law has undergone a very complete alteration of late years.

Previous to the passing of the Representation of the People Act, 1884 (*x*), joint tenants and tenants in common of freehold estates and for freehold interests had a right to vote; for every such tenant is said, in legal phrase, to be seised *per my et per tout*, that is, by the whole and by nothing, since he holds nothing of his separate right, but the whole conjointly. And this notwithstanding that 7 & 8 Will. 3, c. 25, s. 7, provided that no more than one single voice should be admitted for the same house or tenement (*y*).

But by the Representation of the People Act, 1884, it was provided that, "subject to the saving in the Act for existing voters, where two or more men are owners, either as joint tenants or as tenants in common, of an estate in any land or tenement, one of such men, but not more than one, shall, if his interest is sufficient to confer on him a qualification as a voter in respect of the ownership of such estate, be entitled (in the like case and subject to the like conditions as if he were the sole owner) to be registered as a voter, and when registered to vote at an election. Provided that where such owners have derived their interest by descent, succession, marriage, marriage settlement, or will, or where they occupy the land or tenement, and are *bonâ fide* engaged as partners carrying on trade or business thereon, each of such owners whose interest is sufficient to confer on him a qualification as a voter, shall be entitled (in the like cases and subject to the like conditions as if he were sole owner) to be registered as a voter in respect of such ownership, and when registered to vote at an election, and the value of the interest of each such owner, where not otherwise legally defined, shall be ascertained by the division of the total value of the land or tenement equally among the whole of such owners" (*z*).

The saving in this section referred to is contained in section 10

(*t*) Litt. s. 292.

(*u*) See Litt. ss. 292, 309.

(*x*) 48 & 49 Vict. c. 3.

(*y*) Heyw. Co. El. 114.

(*z*) 48 & 49 Vict. c. 3, s. 4 (2).

of the Act, which provides (amongst other things) that nothing in the Act is to deprive any person (who at the date of the passing of the Act, viz., January 1st, 1885, is registered in respect of any qualification to vote for any county or borough) of his right to be from time to time registered, and to vote for such county or borough in respect of such qualification, in like manner as if the Act had not been passed. As to the proviso, see the cases cited on p. 72, *post*.

#### 11. VALUE OF THE FREEHOLD.

(1) **Its History.**—In order to give a vote at the elections of knights of the shire, the freehold of the voter was required by the 8 Hen. 6, c. 7, to be of the value of “forty shillings by the year at least above the reprises.”

At the date of the passing of that statute, viz., A.D. 1429, the shilling, although known in England at that time as a measure of value, or, as it is called, “a money of account,” yet as a coin did not exist, its first appearance as a coin being in the reign of Henry VII., A.D. 1504 (*a*).

Reprises are defined in *Termes de la Ley* (a book said by BAYLEY, J., in 5 B. & C., at p. 229, to be of great antiquity and accuracy) as “deductions, payments, and duties that go yearly and are paid out of a manor as rent-charge, rent-seck, fees of stewards and bailiffs, and such like.”

The comparative value represented at the present day by the “forty shillings above the reprises,” of the statute of Henry VI., is a subject upon which there have been many and very widely differing opinions. Sir William Blackstone put the comparative value in his day at twenty pounds (*b*). The point, however, is of antiquarian rather than practical interest, for, since the year 1744 (*c*), the requisite value is always stated in modern terms as “the clear yearly value of forty shillings over and above all rents and charges payable out of or in respect of the freehold”; and the forty shillings is taken at forty shillings of modern currency.

It is only necessary, therefore, in order to have some appreciation of the effect of the statute of Henry VI. to recognise that whatever forty shillings above the reprises in the year 1429 would represent at the present day, it then was, as Blackstone says, a sum which would, with proper industry, furnish all the necessities of life and render the freeholder an independent man (*d*). To

(*a*) See per KEATINGE, J., in L. R. 3 Q. B. at p. 513, in the case of *Bryant v. Foot* (1868).

(*b*) 1 Bl. Comm. 173.      (*c*) 18 Geo. 2, c. 18, s. 5.      (*d*) 1 Bl. Comm. 172.

put it another way, it may be gathered from Professor Thorold Rogers, on the "History of Agriculture and Prices in England" (c), that a freehold of twenty acres and a homestead would probably have been a freehold of the value required by the statute of Henry VI.

The requisite value remained as required by the Parliamentary Elections Act, 1744 (c), until the year 1832, when it was altered, as regards certain freeholds for life or lives. And as the law now stands, by section 18 of the Reform Act, 1832 (f), as amended by section 5 of the Representation of the People Act, 1867 (g), freehold estates for life or lives, in lands or tenements whereof the owner is not in actual and *bonâ fide* occupation, or which do not come to him by marriage, marriage settlement, devise, or promotion to any benefice or any office, must be of the clear yearly value of not less than five pounds over and above all rents and charges payable out of or in respect of the same.

The result is that the value required, whether it be forty shillings or not less than five pounds, must be the clear yearly value over and above all rents and charges payable out of or in respect of the subject-matter of the qualification.

Two points therefore arise for consideration, viz., first, how the yearly value of the estate is to be ascertained, and, secondly, what are the rents and charges to be deducted from it.

It has been decided, with regard to the occupation franchise in boroughs, and the decision must apply *pari ratione* to a freehold ownership qualification in a county, that what is the clear yearly value of the property must be a question of fact, to be determined by the revising barrister upon the evidence before him (h).

**(2) Method of Ascertaining Value.**—Upon the first point, viz., how the clear yearly value is to be ascertained, the Bedfordshire Committee, in *Blackwell's case* (i), came to the following resolution:—"That the value of a freehold, in right of which the owner votes, is the rent which a tenant would give for it, and not what the owner, occupying it himself, may possibly acquire from it." And after the above resolution, the constant mode of ascertaining the value of an estate was, if it had been disputed, by examining neighbours, farmers, and others who were acquainted with the lands, and inquiring into the amount and proportion of the public and parish taxes they were charged with. So the

(e) Vols. i. pp. 683 *et seq.*, and iv. pp. 752 *et seq.*

(f) 2 & 3 Will. 4, c. 45.

(g) 30 & 31 Vict. c. 102.

(h) *Coogan v. Luckett* (1846), 2 C. B. 182.

(i) (1785), 2 Lud. E. C. 450.

Middlesex Committee (*l*) took the rent which was or might be had as the measure of value, not the profit which a tenant might make. Where lands were let, the rent was in general considered by the Bedfordshire Committee as only one mode of estimating the value, but not so exclusive as to exclude other means of information. The same general principles were adopted in Ireland (*m*). The course of these decisions may be compared with those decided upon the true method of valuing property for the poor rate (*n*).

The Court of Common Pleas also adopted the same general principle, and JERVIS, C.J. (*o*), in the case of *Astbury v. Henderson*, decided in 1854, says, "the true question is, what is the land reasonably worth,—what would it fetch in the market?" In that case a claim was made to vote in right of two plots of freehold land at Putney, in the county of Surrey, for which the owner had had an offer to take a lease for building purposes, at a ground rent of fifteen pounds per annum, but he had refused this offer, and at the time of the election both plots were unbuilt upon and unlet, and would not have produced forty shillings by the year if let for any other than building purposes. It was held that the owner was entitled to vote in respect of the land (*p*).

The right of voting being conferred in respect of the value, it may be made up of several items. The case of *Astbury v. Henderson*, just cited, is an authority for this, and so is the case of *Wood v. Hopper*, decided in 1875. In the latter case, a man was entitled to two distinct rents-charge in fee, issuing out of distinct freehold tenements in the county of Lancaster, and created by indentures of different dates, but neither rent-charge was of the value of forty shillings per annum by itself, although the two together were worth more. The court held that he was entitled to vote for the county in respect of the two together (*q*).

**(3) Rents and Charges to be deducted.**—Upon the second point, viz., what rents and charges are to be deducted so as to arrive at the clear yearly value.

In the statute of Henry VI., the words used are "above the reprises," for which the later statutes substitute "over and above

(*l*) (1804), 2 Peck 104.

(*m*) See *Nolan's Case* (1835), 1 K. & O. 460; *Glennon's Case* (1837), Alc. R. C. 55.

(*n*) *Rex v. Bridgewater Trustees* (1829), 9 B. & C. 68; *Rex v. Adams* (1832), 4 B. & Ad. 61.

(*o*) 15 C. B. p. 258.

(*p*) *Astbury v. Henderson* (1854), 15 C. B. 251.

(*q*) *Wood v. Hopper* (1875), 1 C. P. D. 192.



all rents and charges payable out of or in respect of the same." In respect to the old word "reprises," WILLES, J., says it is "a term never applied, that I can find, to a payment which redounds to the permanent benefit of the owner of the land, like building a house, or such like, but only to such payments as rents-charge, ordinary repairs, taxes, and by analogy and statute to interest, the payment of which once made is so much spent and gone, neither enjoyed by nor invested for the owner or mortgagor. Therefore, the interest of a mortgage is such a charge as must be deducted in ascertaining the clear yearly value"(r).

(a.) *Interest on Mortgage*.—A mortgagor in possession, where the surplus of the yearly profits of his freehold, after deducting the interest of his mortgage money, does not amount to forty shillings, is not entitled to vote. This result was not, however, arrived at immediately, for the point was for a long time considered to be at least doubtful.

In the Bedfordshire Committee, Richard Stringer was objected to as having voted for a freehold of nine pounds a year, charged with two hundred and twenty pounds; the interest of which sum reduced the annual produce to less than forty shillings a year. The case (which was considered as a new one) was fully argued, counsel for the petitioner citing and relying on the case of *Wetherell v. Hall(s)*, a decision that the interest on a mortgage must be deducted in arriving at "the clear yearly value" of an estate, according to the meaning of section 3 of the statute 22 & 23 Car. 2, c. 25, which related to the qualification of persons entitled to kill game. The committee resolved, in accordance with that case, "that the interest upon a mortgage, the mortgagor still being in possession, is such a charge upon the estate within the meaning of the statutes as to affect the rights of the voter." But the facts as to Stringer's case not being clearly proved, his vote was allowed (t).

In a few days afterwards, the Buckinghamshire Committee, in a case exactly the same as Stringer's, adopted that decision, and resolved, "that a mortgage is such a charge upon land as may reduce the value of the freehold below what may entitle a person to give his vote for a knight of the shire"(u).

In the Cricklade Committee, however, a contrary resolution

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(r) L. R. 6 C. P. p. 301, in the case of *Rollston v. Copc* (1871).

(s) Caldecott's Rep. 230, cited 2 Lud. E. C. 588.

(t) *Stringer's case*, *Bedfordshire* (1785), 2 Lud. E. C. 467.

(u) 2 Lud. E. C. 471.

had been passed in the meantime. But three years later the view of the Bedfordshire Committee was adopted by the Legislature in the following manner.

By the statute 38 Geo. 3, c. 36, s. 3 (*x*), freeholders residing at a distance from their freehold might be enrolled on swearing an attestation that they "really and truly had an estate of the clear yearly value of forty shillings, over and above the interest of any money secured by mortgage upon the said estate, and also over and above all rents and outgoings payable out of or in respect of the said estate other than parliamentary, public, or parochial taxes." But this provision, in consequence of the numerous petitions against it, was repealed in the following year, 39 Geo. 3, c. 18.

However, in 1804, the Middlesex Committee came to a similar resolution with that of the Bedfordshire and Buckinghamshire Committees in 1785, viz., "that a mortgage on a freehold shall be considered to invalidate the vote if the interest paid by the voter reduces the value of such freehold below forty shillings per annum" (*y*).

And the Court of Common Pleas, adopting the same principle, further held in the case of *Copland v. Bartlett* in 1848, that the Parliamentary Registration Act, 1843 (*z*), does not give any new or additional right of voting to a freeholder whose estate is burthened with a mortgage beyond what he had under 7 & 8 Will. 3, c. 25, s. 7, and the decisions above cited, but that he must still have an interest not reduced by accruing payments below forty shillings per annum (*a*). In that case, however, which was a case of a mortgage to a building society to secure an advance of 65*l.* purchase money, where both principal and interest were to be paid off together by monthly instalments of fifteen shillings each (equal to 9*l.* a year), whereas the annual value of the property was only 8*l.*, no distinction was found by the case or drawn by the court between periodical payments of interest on the purchase money and periodical payments in reduction of the purchase money itself. It is now settled by the case of *Rolleston v. Cope*, decided in 1871, that of these payments the former alone are charges to be deducted in ascertaining the clear yearly value of the estate (*b*), overruling the decision to the

(*x*) 1788.

(*y*) *Beaumont's case*, *Middlesex* (1804), 2 Peck. 103.

(*z*) 6 & 7 Viet. c. 18, s. 74.

(*a*) *Copland v. Bartlett* (1848), 6 C. B. 18.

*b* *Rolleston v. Cope* (1871), L. R. 6 C. P. 292.

contrary in *Beamish v. Stoke* (c), upon the authority of *Robinson v. Dunkley* (d).

In the case of *Beamish v. Stoke*, decided in 1848, the annual value of the property was 6*l.*, and it was mortgaged to a building society to secure the repayment of 47*l.* 10*s.* 3*d.*, with interest, the mortgagor being bound to make weekly payments of 4*s.* 6*d.* on account of principal and interest, such weekly payments being equal to 11*l.* 14*s.* per annum. This sum was apportioned by the secretary of the building society as follows, viz., 8*l.* 18*s.* in part liquidation of principal, 6*s.* for incidental expenses, and 2*l.* 10*s.* for premium or interest on the amount of principal remaining unpaid. It was not disputed that the 6*s.* and the 2*l.* 10*s.* ought to be deducted, and the only question submitted to the court was whether the payments in part liquidation of the principal ought to be deducted also. The court decided that the whole of the weekly payments constituted a charge upon the property, and ought to be deducted (e).

But in *Robinson v. Dunkley*, decided in 1863, the court came to a decision based on the opposite conclusion. In that case land was mortgaged to a building society to secure the repayment of 73*l.* advanced for purchase money by monthly instalments of 4*l.*, the property being redeemable by payment of these monthly instalments alone, without any other payment of principal. It was held that the mortgagor had an equitable freehold of the requisite value when he had paid off so much that the remainder of the mortgage debt did not reduce the value of his equity of redemption below forty shillings by the year (f).

In *Rolleston v. Cope*, decided in 1871, land worth 31*l.* 4*s.* per annum was mortgaged to a building society to secure the repayment of 300*l.*, money advanced for the purchase, with interest, by monthly instalments of 3*l.* 9*s.*, equal to 41*l.* 8*s.* a year, wherein the proportion of principal to interest was ascertained by the deed at 27*l.* 12*s.* in reduction of principal, and 13*l.* 16*s.* for interest, in every year. The mortgagor having paid off a sufficient number of monthly instalments to render his equity of redemption worth enough, if sold, to pay off the whole remaining amount due, viz., two years' annual payments, or a present payment of 73*l.* 1*s.*, and leave a balance which, if invested in Consols, would produce more

(c) *Beamish v. Stoke* (1851), 11 C. B. 29.

(d) *Robinson v. Dunkley* (1863), 15 C. B. (N.S.) 478.

(e) *Beamish v. Stoke* (1851), 11 C. B. 29.

(f) *Robinson v. Dunkley* (1863), 15 C. B. (N.S.) 478.

than forty shillings by the year, was held entitled to vote in respect of his equitable interest (*g*).

Soon after the decision in *Copland v. Bartlett*, above cited, an attempt was made to avoid the effect of it, as to deducting the interest of mortgages, by a form of mortgage made as a security for the principal money only, no mention of any interest being made in the deed. The deed contained a power of sale absolute on default of payment of the principal and the time of payment had elapsed, but the mortgagor continued in possession, and admitted that he had regularly paid interest on the loan from the date of the mortgage. If this interest was to be considered as a charge upon the land, the equity of redemption was not worth forty shillings by the year, no part of the principal having been paid off. It was held that the interest was really not the less a charge upon the lands because not in terms charged by the mortgage deed, it being evident that the mortgagor could be turned out of possession at any moment, but was allowed to remain undisturbed so long as he paid the interest (*h*).

The interest on a mortgage including freehold with other lands may be apportioned for the purpose of the franchise, so that where a freehold of the annual value of 5*l.* was mortgaged with other lands of the annual value of 50*l.* to secure the repayment of 300*l.*, with interest after the rate of 15*l.* per annum, it was held that the interest might be apportioned, and that the owner had an equitable interest in the freehold land worth more than forty shillings by the year (*i*).

(*b.*) *Devise subject to Debts and Legacies*.—Where land is devised subject to the payment of debts and legacies, the amount of such charges must be deducted in ascertaining the clear yearly value to the person in possession. In the *Oxfordshire case* (1754) (*k*), it appears that one Charles Dent was objected to as “not having a freehold in the said county of forty shillings per annum;” and it appeared that the estate had been devised to him subject to the payment of several sums charged thereon, and evidence was produced to show that they reduced its value to less than forty shillings per annum, and on the other side evidence was produced to prove that those charges had been paid off. So that it must have been admitted on both sides that a freehold estate of greater value than forty shillings per annum devised subject to charges which reduce it below this value did not give a

(*g*) *Rollston v. Cope* (1871), L. R. 6 C. P. 292.

(*h*) *Lee v. Hutchinson* (1850), 8 C. B. 16.

(*i*) *Moore v. The Overseers of Carisbrooke* (1852), 12 C. B. 661.

(*k*) 27 Com. Journ. 63, 146.



vote. It does not appear from the Journals what was the ultimate decision of the House in this case.

(c.) *Rents-charge*.—Rents-charge must, of course, be deducted in ascertaining the clear yearly value of the freehold to the person in possession.

But rents-charge are apportionable, just as interest on a mortgage, for the purpose of the franchise. So where land was subject to a perpetual yearly chief rent of 14*l.* 1*s.* 7*d.*, recoverable by distress, and a portion of the land was granted in fee to eight several grantees as tenants in common, subject only to a proportion, viz., 4*l.* 5*s.*, of the said yearly rent, the grantors covenanting to pay the remainder, and to indemnify the grantees in case of non-payment, and the grantees making a similar covenant and indemnity, with power of distress; although the portion of the land so granted remained legally liable to the whole of the yearly chief rent, and if the whole were to be deducted would not be of sufficient value, it was held that the proportion only, viz., the 4*l.* 5*s.*, was to be taken into account by way of reduction in ascertaining the clear yearly value, upon the ground that the eight tenants in common could enforce contributions in equity from their grantors (*l*).

(d.) *Rates and Taxes*.—With respect to taxes, by the Parliamentary Elections Act, 1744 (18 Geo. 2, c. 18), s. 6, it is provided “that no public or parliamentary tax, county, church, or parish rate or duty, or any other tax, rate, or assessment whatsoever, to be assessed or levied upon any county, division, rape, lathe, wapentake, ward, or hundred, is or shall be deemed or construed to be any charge payable out of or in respect of any freehold estate within the meaning and intention of this Act.” This section is re-enacted by the Parliamentary Elections Act, 1745 (19 Geo. 2, c. 28), s. 5, as to ascertaining the value of freeholds in counties of towns. And the Bedfordshire Committee (*m*) negatived a motion “that the parochial taxes when paid by the tenant constitute a part of the rent paid by him for the land, and are to be considered as part of the income in right of which the owner votes.” A similar motion respecting the window and house taxes passed in the negative (*n*). But another similar motion with regard to the land tax passed in the affirmative.

By the Reform Act, 1832 (*o*), it is enacted that “no public or parliamentary tax, nor any church rate, county rate, or parochial rate, shall be deemed to be any charge payable out or in respect

(*l*) *Burrow v. Buckmaster* (1852), 12 C. B. 664. (*n*) 2 Lud. E. C. p. 476.

(*m*) (1785) 2 Lud. E. C. 475.

(*o*) 2 & 3 Will. 4, c. 45, s. 21.

of any lands or tenements within the meaning of this Act." And the 18 Geo. 2, c. 18, s. 6, and the 19 Geo. 2, c. 28, s. 5, are still unrepealed. And as to church rates, it should be observed that enforcement of them by compulsion of law was abolished by the Compulsory Church Rates Abolition Act, 1868 (*p*).

Tenants' rates, if paid by the landlord, ought to be deducted in ascertaining the clear yearly value. So in the case of *Moorhouse v. Gilbertson*, decided in 1853, where land was let by joint owners in fee, and was rated to the poor and other usual tenants' rates, which included a water rate and local board of health rate, and it was part of the terms of the letting that these rates should be paid by the owners, and they were so paid, it was held that the sum received as rent by each of the joint owners being less than forty shillings by precisely the amount of the rates, the joint owners were not entitled to vote (*q*). And JERVIS, C.J., said, that "the sixth section of the 18 Geo. 2, c. 18, means that the amount received by the landlord shall not be reduced by any rate or rates chargeable upon him in respect of the premises" (*r*).

(e.) *Tithe Commutation Rent-charge*.—It would seem that the tithe commutation rent-charge under the Tithe Act, 1836 (6 & 7 Will. 4, c. 71), is a charge which ought to be deducted in ascertaining the clear yearly value of the freehold (*s*). As between landlord and tenant, before the passing of the Tithe Act, 1891 (*t*), the law stood thus—"by the Act of Parliament upon this subject the tenant is made primarily liable both for the land tax and the tithe rent-charge. He is bound to pay both, although, having made the payments, he is entitled to deduct both from the rent due from him to the landlord" (*u*). Therefore, at least where the landlord agreed to pay the tithe commutation rent-charge, it ought to have been deducted, upon the principle of *Moorhouse v. Gilbertson* just cited. And in the case of *Reg. v. St. John's, Bedwardine*, tithe commutation rent-charge was treated upon the same footing as other tenants' taxes for the purposes of the statute 6 Geo. 4, c. 57, as to pauper settlements (*x*). And since the passing of the Tithe Act, 1891 (*t*), there can be little doubt that tithe commutation rent-charge ought to be deducted in all cases, because by that statute it is made payable by the landowner notwithstanding any contract between him and the occupier.

(*p*) 31 & 32 Vict. c. 109.

(*q*) *Moorhouse v. Gilbertson* (1853), 14 C. B. 70.

(*r*) *Ibid.* on p. 75.

(*s*) Elliott on Registration, 86.

(*t*) 54 & 55 Vict. c. 8.

(*u*) 1 De G. F. & J. at p. 332, per LORD CAMPBELL, C., in *Parish v. Sleeman* (1860).

(*x*) *R. v. St. John's, Bedwardine* (1838), 8 A. & E. 192.

(f.) *Repairs*.—As to repairs, in the Bedfordshire Committee, John Southwell had married one of six daughters who were entitled to equal shares of an estate consisting of a malting house, two other houses, and a few acres of land, let to a tenant for eight guineas a year clear rent, he paying for the land tax 1*l.* 4*s.* and laying out annually on the premises 3*l.* in repairs and improvements. Thus, including the two last mentioned sums, the sixth part amounted to 2*l.* 2*s.* For the support of the vote it was contended that this sum of 3*l.* was to be considered as part of the rent or value of the estate, and so each share would produce more than forty shillings. On the other side, it was contended that it ought to be deducted from the produce of the estate because it was no profit to the owner, not received by him; that it proved the tenements to be in great decay, and their value consequently by so much the less to a purchaser. The vote was held good (y). But it has been since decided in the case of *Hamilton v. Bass*, in 1852, that the cost of landlord's repairs necessary to make the premises worth forty shillings by the year ought to be deducted in ascertaining the clear yearly value. In that case freehold property belonging to thirty jointenants was let at a gross rent of 73*l.* 15*s.*, with an agreement that the landlords should pay all rates and taxes, the tenants being rated to all the usual tenants' rates, amounting in all to 12*l.* 11*s.* 5*d.*, including poor and other parochial rates, a lighting rate, and a board of health rate, all these being in pursuance of the terms of the letting paid by the landlords. And besides these rates, the average expenditure for necessary repairs done by the landlords in order to enable them to procure the gross rents amounted to a sum of 4*l.*; and the necessary annual expense to the landlords for collecting the rent amounted to a sum of 1*l.* 6*s.* annually. It was agreed by both sides that the annual rent which a solvent tenant would give for the property in its then condition must in this case be taken to be 63*l.* 3*s.* 7*d.*, and that the sum of 1*l.* 6*s.* was a charge payable by the landlords in respect of the property which ought to be deducted; but the dispute was whether the 4*l.* should be deducted or not, for if it was, the resulting share to each owner was less than forty shillings by the year. The court held that the 4*l.* ought to be deducted, and that the landlords were accordingly not entitled to vote in respect of their respective shares (z).

(g.) *Expenses of Collecting Rent*.—The necessary expenses of collecting rent ought to be deducted in ascertaining the clear

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(y) *Southwell's case, Bedfordshire* (1785), 2 Lud. E. C. 447.

(z) *Hamilton v. Bass* (1852), 12 C. B. 631.

yearly value of the freehold. Whether expenditure for collection of rent is necessary is a fact for the revising barrister to decide and to find, and when he has found a certain expenditure to be necessary for this purpose, it ought to be deducted. Thus, in the case of *Sherlock v. Steward*, decided in 1859, where a vote was claimed in respect of an undivided thirty-fifth share in freehold property, which was let at a net rental of 70*l.* 16*s.* 10*d.*, or about 2*l.* 0*s.* 6*d.* per share, and the property was managed by one of the owners, who was allowed a commission of 5*l.* per annum for receiving the rents and remitting to each owner his share, and which sum being deducted from 70*l.* 16*s.* 10*d.* left less than 40*s.* per share, the revising barrister found that the allowance of such commission was, from the nature of the property, necessary for the collection of the rents. The court held that the claimant was not entitled to vote in respect of his share, because the proportion of this commission ought to be deducted, and if deducted left the remainder of less value than 40*s.* by the year (a).

(h.) *Improvement Charges*.—But a payment which redounds to the permanent benefit of the owner of the land ought not to be deducted. For instance, in the case of *Buckley v. Wrigley*, decided in 1871, forty-eight equitable tenants in common in fee were possessed of property of a net yearly value of 101*l.* 4*s.* 2*d.*, and they caused to be expended for laying on water for the use of the lessees a sum of 21*l.* 19*s.* 1*d.*, the lessees being charged an increased rent in respect of it, as a permanent improvement. It was held that such expenditure ought not to be deducted in arriving at the clear yearly value of each share (b).

(i.) *Dower*.—In the Bedfordshire Committee many cases happened in which a widow's dower was contended to be a diminution of value. Where it had appeared in any of them that the widow had not received or claimed dower for a considerable length of time, according to the circumstances of the cases, the committee considered that as presumptive evidence of a release of it (c). Since that case, however, the passing of the Dower Act (d) and the frequency of the insertion of a declaration to bar dower in purchase deeds, have rendered dower of far less common occurrence. The Married Women's Property Act, 1882 (e), apparently does not affect the question.

(k.) *Judgments*.—Judgments, at the present day, do not affect

(a) *Sherlock v. Steward* (1859), 7 C. B. (N.S.) 21.

(b) *Buckley v. Wrigley* (1871), L. R. 7 C. P. 185.

(c) *Bedfordshire* (1785), 2 Lud. E. C. 450.

(d) 3 & 4 Will. 4, c. 105.

(e) 45 & 46 Vict. c. 75.



land of any tenure until such land shall have been actually delivered in execution by virtue of a writ of *elegit* or other lawful authority in pursuance of such judgment (*f*). In the construction of this Act, by section 3, the term "judgment" is to be taken to include registered decrees, orders of courts of equity and bankruptcy, and other orders having the operation of a judgment; and the term "land" all hereditaments, corporeal or incorporeal, or any interest therein. The words "other lawful authority" in section 1 have been decided to refer to the order of a court having authority to give that which amounted to delivery in execution; in other words, to put the land in the possession of a receiver, which is commonly called "equitable execution" (*g*). There is, therefore, a charge upon the land which ought to be deducted for the purpose of arriving at the clear yearly value from the moment that the sheriff has made his return to the writ of *elegit* that he has extended the land, or a competent court has made an order for the appointment of a receiver.

## 12.—ALIENATION OF THE FREEHOLD.

The right to vote in respect of a freehold being, as Lord HOLT says, an original right vested in and inseparable from the freehold, and which can no more be severed from the freehold than the freehold itself can be taken away (*h*), it follows that, as a general rule, any alienation of the freehold which by law divests the freehold out of its owner divests also the right to vote, and consequently to be registered in respect of the freehold.

(1) **By act of Parties.**—Alienation by the voluntary act of the parties was never doubted to divest the right to vote out of the alienor, but whether the right was always transferred to the alienee depended upon other considerations.

The multiplying of freeholds for the express purpose of increasing the number of voters is said to have been unknown before the General Election of 1678—1679, when the Dissenters proceeded thereto as part of the extraordinary exertions then made by them to obtain a majority in the Commons in the third Parliament of Charles II. (*i*). The practice speedily became general, and was the more easy in consequence of the great depreciation in the value of the minimum of forty shillings fixed by the statute of Henry VI.

(*f*) Judgments Act, 1864 (27 & 28 Vict. c. 112), s. 1.

(*g*) *Hatton v. Haywood* (1874), L. R. 9 Ch. App. 229; *Anglo-Italian Bank v. Davies* (1878), 9 Ch. D. 275; *Ex parte Evans; Re Watkins* (1879), 13 Ch. D. 252.

(*h*) 2 Ld. Raym. 950. (i) Echard's History of England, vol. iii. p. 512.

Before any statute passed to restrain the evil, it received the emphatic condemnation of a court of law in the case of *Onslow v. Ripley* (*k*). Nevertheless, the practice was afterwards adopted in several instances, as in Suffolk in 1690 (*l*), and in other cases. But it was chiefly prevalent in boroughs, and led to the passing of the statute 7 & 8 Will. 3, c. 25, commonly called "The Splitting Act," which is said to have been framed by Lord Somers (*m*) with the express object of preventing this and other irregular proceedings at elections.

By section 6 of this Act, it was enacted, amongst other things, "that all conveyances of any messuages, lands, tenements, or hereditaments in any county, city, borough, town corporate, port or place, in order to multiply voices, or to split and divide the interest in any houses or lands among several persons to enable them to vote at elections of members to serve in Parliament, are hereby declared to be void and of none effect, and that no more than one single voice shall be admitted for one and the same house or tenement."

This statute was followed in 1711 by the 10 Anne, c. 23 (c. 31 in the Statutes Revised, and now called The Elections (Fraudulent Conveyances) Act, 1711), which was aimed at the further repression of the same evil.

By the 10 Anne, c. 23, after reciting the 7 & 8 Will. 3, c. 25, s. 7, it was enacted that all conveyances fraudulently and collusively made to create a qualification, subject to conditions to re-convey, should be deemed to be absolute, and that the grantees should hold the estates freed from all such conditions or trusts; that collateral securities for revocation should be void; and that persons making such conveyances should be liable to forfeit forty pounds to any common informer. By the same statute it became an additional part of the oath formerly required of the freeholder that his estate had not been granted or made to him fraudulently on purpose to qualify him to give his vote. This provision was continued by the Parliamentary Elections Act, 1744 (18 Geo. 2, c. 18), s. 1.

The provisions of the 10 Anne, c. 23, are declaratory of the common law by which whenever a person made a fraudulent grant for the purpose of creating a vote the grantee might take possession

(*k*) Lord Somers' Tracts, vol. viii. p. 271 (2nd ed. 4to. 1812). See also Lord Somers' remarks at p. 275. The subsequent history of this case is to be found in 3 Lev. 29; 2 Vent. 37.

(*l*) 10 Com. Journ. 362.

(*m*) See 2 C. B. 127, in the case of *Alexander v. Newman* (1846).

of the land and recover the profits from the grantor freed from the condition (*n*).

Since the words of the Splitting Act (*o*) do not expressly include devises with other conveyances, it was further enacted by the Parliamentary Elections Act, 1813, after reciting the statute of William, and that doubts had been entertained whether devises by will made in such cases and for such purposes were within the true intent and meaning of the said Act, that "all devises by will made in such cases and for such purposes as by the said Act are herein-before described are and shall be taken to be conveyances within the true intent and meaning of the said Act, as if the same had been therein specially mentioned; provided always, that this Act shall not revoke or defeat any part of any will in which is comprised any devise or devises which is or are hereby declared void, other than or beyond the devise or devises made void by this Act (*p*)."

The true construction of the Splitting Act (*o*) has given rise to much discussion, the point of dispute being whether it prohibited conveyances made upon good consideration and *bonâ fide* merely because they were made for the purpose of multiplying votes, or whether in order to avoid the conveyance it must be shown not only that it had the effect of multiplying votes, but also that there was an element of fraud in the transaction, and that the grant was illusory, no real interest passing from the one party to the other.

It is now well settled, however, that the mere creation of qualifications in order to multiply votes by real conveyances made *bonâ fide* and upon good consideration is not contrary to the law of Parliament nor forbidden by this statute.

The old cases will be found collected in Serjeant Heywood's book on "County Elections," and from the proceedings in and the results of these cases, it may be inferred that the Committees thought it to be the better founded opinion that votes were bad for occasionality only where there was fraud in the transaction and the transfer of property was only pretended and not real, or accompanied by some secret trust as to the vote which was the object of it (*q*).

After the Court of Common Pleas were invested with jurisdiction in registration cases the exact point, viz., whether a conveyance for the avowed and only object of multiplying voices, but at the same time made *bonâ fide*, the purchase money being really paid

(*n*) Heywood Co. El. 165; *Nightingal v. Devisme*, June 29th, 1772, 15 Annual Register, p. 119, reported upon another point May 8th, 1770, in 5 Burr. 2589; 2 W. Bl. 684.

(*p*) 53 Geo. 3, c. 49, s. 1.

(*o*) 7 & 8 Will. 3, c. 25, s. 7.

(*q*) Heywood Co. El. 154.

and possession of the land really taken and kept under the conveyance, and where there was no secret trust or reservation in favour of the seller, nor any stipulation as to the mode in which the vote to be acquired was to be used, fell within the provisions of section 7 of the statute of William III. or not, arose in 1846 in the case of *Alexander v. Newman*.

The court had previously decided in 1845, in the case of *Marshall v. Bown*, that in order to make the conveyance void the seller must be party or privy to the illegal object (*r*); and in 1846, in the case of *Hoyland v. Bremner*, that it was not sufficient to prove that the vendor's solicitor was party or privy to the illegal object where the vendor was not shown to be personally party or privy to it (*s*). But the court was careful to point out that the main point was not touched by those decisions (*t*).

The main question, however, was directly raised in *Alexander v. Newman*, under the following circumstances :

Joseph Bottomley and thirty-four other persons claimed to have their names inserted in the register of voters for the West Riding of York as tenants in common in fee of freehold lands and tenements, sufficient to confer votes, unless there was anything in the manner in which such interests had been acquired to prevent the claimants from having and using such votes. The facts as to this were that the claimants being desirous of obtaining a qualification to vote applied to a person who advertised himself as an agent for the sale and purchase of small freeholds for the purpose of qualifying voters. This person had been authorized by the owners of the freehold property, which was the subject of this case, to sell it for them for the express and only object of multiplying votes. A purchase was accordingly arranged by this person whereby the claimants purchased the property for the fair market value, each contributing their share, and a conveyance was duly executed by the vendors to the claimants without any secret trust or reservation in favour of the vendors and without any stipulation as to the mode in which the votes to be acquired were to be exercised. Both the vendors and the claimants were of the same political opinions, and, though there was no immediate concert between them, the avowed and only object of the transaction on both sides was to multiply votes at the elections, the purchase money was duly paid, and the vendors subsequently took a lease of the property from the claimants for a term of

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(*r*) *Marshall v. Bown* (1845), 7 M. & G. 188.

(*s*) *Hoyland v. Bremner* (1846), 2 C. B. 84.

(*t*) See *per* TINDAL, C.J., in 7 M. & G. at p. 195.



fifteen years at a yearly rent which was a fair and proper rent, and was duly paid. The court delivered a considered judgment in favour of the claimants, holding that they had a good qualification and were entitled to be registered, and when registered to vote at the election of members for the West Riding (*u*).

The same point was also argued in the case of *Riley v. Crossley* (*x*). And the court held that the facts in substance brought the case within the same principle as was laid down in *Alexander v. Newman*.

The like decision was arrived at with regard to conveyances of equitable freeholds in *Beswick v. Ashworth* (*y*); *Beswick v. Aked* (*z*); *Thorniley v. Aspland* (*a*); and again, as to legal estates of freehold, *Rawlins v. Bremner* (*b*).

In the same term, in the cases of *Newton v. Hargreaves* and *Newton v. The Overseers of Mobberley*, it was held that conveyances for the avowed and only object of multiplying votes, but at the same time made *bonâ fide*, not for valuable consideration, but upon what is known in equity as good consideration, are not within the statute of William III., provided that possession is really taken and kept under the conveyance and there is no secret trust or reservation in favour of the grantor, nor any stipulation as to the mode in which the vote to be acquired is to be used (*c*).

"Good consideration" in equity means "good for the purpose of raising an use," although not possessing a market value. This is also called the consideration of natural affection or blood, and will support a covenant to stand seised to the use of the covenantor's wife, son (not being a bastard), brother, or any of his kindred within the degree of nephew or cousin, or the wives of any of them, for husband and wife are but one person for this purpose. Nor was it necessary when it was by deed that the consideration should be expressed, it being obvious where the relationship was noticed, and if not noticed it might be averred (*d*).

A similar decision was arrived at where a rent-charge was granted to the son and son-in-law of the grantor for life, for a nominal money consideration, for the only object of qualifying the claimants to vote, of which object all parties were cognisant,

(*u*) *Alexander v. Newman* (1846), 2 C. B. 122. Even where the statute renders the conveyance void, it is avoided only for the purpose of conferring a vote, and remains good for other purposes. See 10 Anne, c. 23, and *Philpotts v. Philpotts* (1850), 10 C. B. 85.

(*x*) 2 C. B. 146.

(*z*) 2 C. B. 156.

(*b*) *Id.* 166.

(*y*) *Id.* 152.

(*a*) *Id.* 160.

(*c*) *Newton v. Hargreaves* (1846), 2 C. B. 163; *Newton v. The Overseers of Mobberley*, *Id.* 203.

(*d*) Sugd. *Gilb. on Uses*, 3rd ed., pp. 92, 452.

and there was no proof that any part of the rent-charge had been paid (*e*).

In order still more effectually to prevent the making of fraudulent and occasional votes, the freeholder was required by certain statutes of Anne (*f*) to have been assessed for a certain period to some one or more of the public taxes before he was permitted to vote. These statutes were repealed by the 18 Geo. 2, c. 18, which introduced a new system and made assessment to the land tax, and not the land itself, a qualification to vote (*g*), and required possession of the freehold for a period of twelve calendar months before the right to vote could be exercised in respect of it.

And in order to prevent the use of grants of annuities and rents-charge as instruments for the creation of fraudulent votes, such grants were required, by the 3 Geo. 3, c. 24, to be registered with the clerk of the peace.

The necessity for assessment to the land tax was abolished by the Reform Act, 1832 (*h*), and for the registration of annuities by the Parliamentary Registration Act, 1843 (*i*).

The modern safeguards against the making of fraudulent and occasional votes, in addition to the avoiding of the conveyance, are the necessity for the actual occupation of freeholds for life under the yearly value of five pounds, the abolition of rents-charge as a qualification, the necessity for the actual possession of the freehold for a period of six months, before the right to vote can be rendered available; and lastly, the necessity for registration.

As to the actual occupation of freeholds for life. By section 18 of the Reform Act, 1832, it is provided "that no person shall be entitled to vote in the elections of a knight or knights of the shire to serve in any future Parliament, or in the election of a member or members to serve in any future Parliament, for any city or town, being a county of itself, in respect of any freehold lands or tenements, whereof such person may be seised for his own life, or for the life of another, or for any lives whatsoever, except such person shall be in the actual and *bonâ fide* occupation of such lands or tenements, or except the same shall have come to such person by marriage, marriage-settlement, devise, or promotion to any benefice or to any office, except the same shall be

(*e*) *Norton v. The Overseers of Crowley* (1846), 2 C. B. 207.

(*f*) 10 Anne, c. 23 (c. 31 Stat. Rev.), s. 2; 12 Anne, c. 5.

(*g*) See Heyw. Co. El. chap. 6, and 20 Geo. 3, c. 17, s. 1.

(*h*) 2 & 3 Will. 4, c. 45, s. 22.

(*i*) 6 & 7 Vict. c. 18, s. 72.

of the clear yearly value of not less than ten pounds above all rents and charges payable out of or in respect of the same; any statute or usage to the contrary notwithstanding: Provided always, that nothing in this Act contained shall prevent any person now seised for his own life or for the life of another, or for any lives whatsoever, of any freehold lands or tenements, in respect of which he now has, or but for the passing of this Act might acquire the right of voting in such respective elections, from retaining or acquiring, so long as he shall be so seised of the same lands and tenements, such right of voting in respect thereof, if duly registered according to the provisions hereinafter contained."

The ten pounds in this section mentioned was reduced to five by the effect of section 5 of the Representation of the People Act, 1867 (*j*).

The question as to what amounts to an "actual occupation" within the meaning of the Act was discussed in 1869, in the case of *Trenfield v. Lowe*. In that case the bailiff and bailiff burgesses of Chipping Sodbury, a borough of ancient incorporation, were entitled to a piece of pasture land, which from time immemorial they had been used to grant in small allotments to inhabitants, chosen by a majority of votes at meetings of the burgesses, each allotment being granted for the lives of the donee and his lawful wife him surviving, so long as he and she continued resident in the borough, by a ceremony resembling livery of seisin. But it was also the immemorial custom for the bailiff and bailiff burgesses, in regard to all such holdings, to grant out the after grass, with the right to depasture one cow, in each such holding, to other inhabitants for five weeks in each year from September 10th; after the expiration of which period the whole pasture was thrown open to all the inhabitants of the borough, to depasture sheep and cattle therein till December 15th. Each holder of an allotment was separately rated to the poor rate, and separately assessed to the income tax. It was held that each owner was in actual and *bonâ fide* occupation (*k*).

There cannot be an actual occupation of certain incorporeal hereditaments, which are tenements, such as a rent-charge. If, therefore, a rent-charge be for life or lives, the person entitled to it is not thereby entitled to vote, unless it be of the clear yearly value

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(*j*) 30 & 31 Vict. c. 102.

(*k*) *Trenfield v. Lowe* (1869), L. R. 4 C. P. 454. As to Chipping Sodbury, see Municipal Corporations Act, 1883 (46 & 47 Vict. c. 18), Sched. 2, Part I.

of five pounds, or "except the same shall have come to such person by marriage, marriage-settlement, devise, or promotion to any benefice or office" (*l*).

And it is further to be observed as to rents-charge, that by sections 4 and 10 of the Representation of the People Act, 1884 (*m*), no person is entitled to be registered in respect of the ownership of any rent-charge, unless he was so registered on December 6th, 1884, except the owner of the whole of the tithe rent-charge of a rectory, vicarage, chapelry, or benefice to which an apportionment of tithe rent-charge shall have been made in respect of any portion of tithes.

As to property coming to any person by marriage within the meaning of section 18 of the Reform Act, 1832, regard must now be had to the provisions of the Married Women's Property Act, 1882 (*n*), which destroys all such rights unless they have been acquired by marriage previous to the passing of the Act.

In respect of property coming to a person "by devise," it was held in 1857, in *West v. Robson*, that annual payments out of a rent-charge on lands in the county of Durham made to fellows of Lincoln College under the will of Lord Crewe did not entitle such fellows to a vote in the county of Durham (*o*).

As to the meaning of the property coming to a person by "promotion to any office," it was held in 1857, in *Faulkner v. The Overseers of Upper Boddington*, that to be appointed a beadleman of Daventry, and thereby to become entitled to the benefit of a certain charitable trust, whereby the rents of certain lands become divisible amongst the six beadle-men of Daventry, is not to be appointed to an office within the meaning of the statute, there not being any duties attached to the appointment which would constitute it an office (*p*); also in the case of *West v. Robson*, just cited, it was held that election as a fellow of Lincoln College, Oxford, was not a "promotion to any benefice or to any office" within the meaning of the statute (*q*).

Under the Irish statute *in pari materia*, 13 & 14 Vict. c. 69, s. 14, it has been held that the promotion to the office or benefice must give the person a right to the lands or tenements; it is not sufficient that the lands or tenements should be provided for a person who, as a matter of fact, is holding the office (*r*).

(*l*) *Druitt v. The Overseers of Christchurch* (1883), 12 Q. B. D. 365.

(*m*) 48 & 49 Vict. c. 3.

(*n*) 45 & 46 Vict. c. 75.

(*o*) *West v. Robson*, (1857), 3 C. B. (N.S.) 422.

(*p*) *Faulkner v. Overseers of Upper Boddington* (1857), 3 C. B. (N.S.) 412.

(*q*) *West v. Robson* (1857), 3 C. B. (N.S.) 422.

(*r*) *Foster v. Mulhall* (1859), 10 Ir. C. L. Rep. 532.



But of all the precautions against the making of fraudulent and occasional votes, perhaps the most effectual has been the requisition that each voter shall have been in possession of his qualification for a certain period of time.

This restriction was first imposed by the Parliamentary Elections Act, 1744, s. 5, whereby it was provided that no person should vote in any election of knights of the shire without having been in the actual possession or in receipt of the rents and profits of his freehold for his own use above twelve calendar months, unless the same came to him within that time by descent, marriage, marriage settlement, devise, or promotion to any benefice in a church, or by promotion to an office (*s*).

And by the freeholder's oath as altered by section 1 of the same Act, he was obliged to swear to that effect.

These enactments continued to be law until the passing of the Reform Act, 1832, when they were superseded by the provisions of section 26 of that Act, and are now repealed by the Statute Law Revision Act, 1867 (*t*).

By section 26 of the Reform Act, 1832 (*u*), as altered by subsequent legislation (*x*), the law now is that no person may be registered in respect of a freehold estate or interest in any lands or tenements unless he has been in actual possession or receipt of the rents and profits to his own use for six calendar months previous to July 15th, or unless the lands or tenements, being such as would otherwise entitle him to vote, shall have come to him at any time within such period of six calendar months by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice or any office.

The meaning of the terms descent, etc., have been already discussed (*y*) in connection with their use in section 18 of the Reform Act of 1832, and the remarks there made are generally applicable to this section.

With regard to rents-charge, the following curious distinction has been drawn as to the time of commencement of actual possession between rents-charge created by conveyances operating at common law and rents-charge created by conveyances operating under the Statute of Uses (*z*).

There could be no actual possession within the meaning of the Act of a rent-charge created by conveyance operating at common

(*s*) Parliamentary Elections Act, 1744 (18 Geo. 2. c. 18), s. 5.

(*t*) 30 & 31 Vict. c. 59.

(*u*) 2 & 3 Will. 4, c. 45, s. 26.

(*x*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. 26), s. 7; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 12.

(*y*) *Ante*, p. 72.

(*z*) 27 Hen. 8, c. 10.

law until the grantee had actually been paid something on account (*a*). But where the rent-charge was created by a deed operating under the Statute of Uses, the effect of the statute was to put the grantee in actual possession within the meaning of this Act as from the execution of the deed (*b*).

But since a rent-charge, except it be the tithe commutation rent-charge of a rectory, vicarage, chapelry, or benefice to which an apportionment of tithe rent-charge has been made in respect of any portion of tithes, is no longer a qualification to the owner (*c*), unless he was registered in respect of it on December 6th, 1884 (*d*), the point is not likely to recur again, and it is, therefore, unnecessary to enter into a detailed consideration of the authorities.

**(2) By Operation of Law.**—Alienation of the freehold by operation of law divests, together with the freehold, the inseparably incident right to vote and to be registered as a voter in respect of the freehold, just as voluntary alienation by act of the parties.

Formerly attainder on conviction for treason or felony had this effect, but attainder is now abolished, and the disqualification upon conviction is personal (*e*).

At the present time adjudication in bankruptcy has this effect, although formerly the estate remained in the bankrupt until the assignment to his assignees.

The effect of an order of adjudication of bankruptcy is immediately from the date thereof to vest all the property (which includes land and every description of real property) of the debtor divisible amongst his creditors in the trustee, and until a trustee is appointed in the official receiver (*f*).

Therefore, almost every freehold in right of which the owner is entitled to be registered as a voter is by the operation of the statute divested out of him and vested in the official receiver or trustee without the necessity of any assignment as under the old law, and the bankrupt thereupon ceases to have any estate left in him in respect of which he can be entitled to be registered.

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(*a*) *Murray v. Thorniley* (1846), 2 C. B. 217; *Hayden v. Twerton* (1846), 4 C. B. 1; *Webster v. The Overseers of Ashton-under-Lyne: Orme's Case* (1872), L. R. 8 C. P. 281; *Druitt v. Lane* (1882), Saint, Reg. Cas. 79.

(*b*) *Heddis v. Blain* (1864), 18 C. B. (N.S.) 90; *Webster v. The Overseers of Ashton-under-Lyne: Hadfield's Case* (1872), L. R. 8 C. P. 306; *Lowcock v. Broughton* (1883), 12 Q. B. D. 369.

(*c*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 4.

(*d*) *Ibid.*, s. 10.

(*e*) *Post*, Chapter IV.

(*f*) Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), ss. 20, 54, 168; see *Cullender, Sykes & Co. v. Colonial Secretary of Lagos*, [1891] A. C. 460; *In re Lory's Trusts* (1885), 30 Ch. D. 119.

But ecclesiastical freehold to which a person is entitled in right of his benefice will not vest in the trustee unless and until he issues sequestration (*g*).

And as to freeholds in respect of which a bankrupt husband may have been entitled to be registered as a voter, although he holds them in right of his wife, the general rule is that whatever interest a husband has in his wife's property, and he can himself dispose of, will on his adjudication pass to his trustee. And the estate of the husband as tenant by the curtesy will also vest in the trustee (*h*).

## II.—COPYHOLDS AND CUSTOMARY TENEMENTS.

*A person entitled to be registered as a parliamentary elector for a county in respect of a copyhold or customary qualification—*

- (A) *Must be beneficially entitled, either at law or in equity, to an estate for life or lives or any larger estate in lands or tenements of any tenure other than freehold of the clear yearly value of five pounds over and above all rents and charges payable out of or in respect of the same (i); and*
- (B) *Must have been in actual possession or receipt of the rents and profits to his own use for six calendar months next previously to the 15th day of July in the year in which such person is to be registered, unless the property has been acquired by him within that period by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice or any office (k).*

*If two or more persons jointly are such owners as above mentioned, the same provisions apply to the registration of one or more of them as apply in the case of a freehold qualification (l).*

These last-mentioned provisions, having been already fully discussed in respect of a freehold qualification (*m*), need no further notice.

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(*g*) *Hopkins v. Clarke* (1864), 5 B. & S. 753; and see *Ex parte Chick, In re Meredith* (1879), 11 Ch. D. 731; *Lawrence v. Edwards*, [1891] 1 Ch. 144.

(*h*) See *Gibbins v. Eyden* (1869), L. R. 7 Eq. 371.

(*i*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 5.

(*k*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 26; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 5.

(*l*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 4.

(*m*) *Ante*, p. 53.

The subject of COPYHOLD OR CUSTOMARY QUALIFICATIONS may be discussed under the following heads :—

1. THE KINDS OF CUSTOMARY TENURES (p. 76), which are either general or special.
2. SPECIAL FORMS OF CUSTOMARY TENURE (p. 77), (1) tenure in ancient demesne ; (2) tenures resembling ancient demesne ; (3) northern tenant rights ; (4) common characteristics of special customary tenures ; (5) right to vote previous to the Reform Act, 1832.
3. RIGHT TO VOTE FOR CUSTOMARY TENEMENTS UNDER REFORM ACT, 1832 (p. 80).
4. RIGHT TO VOTE UNDER SUBSEQUENT STATUTES (p. 81).
5. VALUE OF CUSTOMARY TENEMENTS (p. 82).
6. COPYHOLD OR CUSTOMARY TENEMENTS IN A BOROUGH (p. 82).
7. ALIENATION (p. 84), (1) by act of the parties ; (2) by operation of law.

### 1. THE KINDS OF CUSTOMARY TENURES.

The kinds of customary tenure are either general, such as exist by the custom of most manors, which are usually in the hands of subjects ; or special, as in some manors, chiefly, though not exclusively, those which are said to be of ancient demesne (*de antiquo dominico domini regis*).

Tenants by the general form of customary tenure are called copyholders. "Tenant by copy of court roll is as if a man be seised of a manor within which manor there is a custom which hath been used time out of mind of man, that certain tenants within the same manor have used to have lands and tenements to hold to them and their heirs in fee simple or fee tail or for term of life, etc., at the will of the lord, according to the custom of the manor" (*n*). And before the Reform Act, 1832 (*o*), it was not disputed that ordinary copyholders had no right to vote in the elections of knights of the shire (*p*). But with regard to tenants by special forms of customary tenure, many disputes as hereinafter mentioned arose.

(*n*) Litt. s. 73.

(*o*) 2 & 3 Will. 4, c. 45.

(*p*) See the judgment in *Spencer v. Harrison* (1879), 5 C. P. D. 101.



## 2. SPECIAL FORMS OF CUSTOMARY TENURE.

Tenants by special forms of customary tenure include three principal classes: tenants in ancient demesne, tenants in certain other manors not properly of ancient demesne but where the customs are similar, and tenants by the tenant-right of the counties of Cumberland, Westmoreland, and Northumberland.

(1) **Tenure in Ancient Demesne.**—Manors of ancient demesne are those mentioned in “Domesday” under the title of *Terra Edwardi Regis et Confessoris*, or *Terra Regis* only, by which is intended William the Conqueror, in whose time the book was made (*q*), and “Domesday” is the only proper evidence of the fact. These manors are reputed by the law to be ancient patrimonial possessions of the Crown, which were properly kept in the King’s hands, but are now often found in the hands of subjects. Examples of such manors are the manor of Sudbury, in the county of Suffolk (*r*); the manor of Dymock in Gloucestershire, the manor of Hope or Longhope in the same county (*s*), and the manor of Wakefield in the county of York (*t*), the manors of Tewington, Climsland, Helston, and Penlyn, in the Duchy of Cornwall (*u*). And the tenants by the custom of these manors were said to hold “according to the custom of the manor,” but not expressly “at the will of the lord.”

(2) **Tenure resembling Ancient Demesne.**—Though these tenants, holding not at the will of the lord but according to the custom of the manor, are most usually found in the manors of ancient demesne, yet they are sometimes met with in other manors. Lord COKE mentions such in the county of Northampton (*x*). Mr. Justice BLACKSTONE says they are to be met with (as well as in manors of ancient demesne) in manors that bear a near relation to the Crown, being parcel of the Duchy of Cornwall or the old principality of Wales (*y*). And Mr. Serjeant Heywood says they also prevail in the Duchy of Lancaster (*z*). Examples of such manors are the manor of Corsham, in Wiltshire, which is parcel of the Duchy of Cornwall (*a*); the manor of Abercarne, in the county of Monmouth (*b*); the manor of Stepney, in the county of

(*q*) Y. B. 49 Ed. 3, f. 22; 2 Inst. 542; 4 Inst. 269.

(*r*) Dyer, 250b.

(*s*) *Holdage v. Hodges* (1663), 1 Lev. 106.

(*t*) *Crowther v. Oldfield* (1705), 1 Salk. 364.

(*u*) *Rowe v. Brenton* (1827), 3 M. & R. 140, 149.

(*x*) See Co. Cop. s. 32; and *Griffin v. Palmer* (1618), Brownl. 43; Hob. 188.

(*y*) See Bl. Law Tracts, 3rd edit. 218.

(*z*) Heyw. Co. El. 77. See Y. B. 11 Hen. 4, f. 85, pl. 36.

(*a*) *Gale v. Noble* (1698), Carth. 432.

(*b*) *Doe v. Llewellyn* (1835), 2 C. M. & R. 503.

Middlesex (*c*); the manor of Bitterne (*d*); the manor of Hasden, in the county of Kent (*e*). And in the assessionable manors of the Duchy of Cornwall are certain tenants called conventional tenants, holding lands to them and their heirs, from seven years to seven years, according to the custom. This kind of tenure is largely discussed in *Rowe v. Brenton* (*f*).

(3) **Northern Tenant Right.**—In the three northernmost counties, *i.e.*, Cumberland, Westmoreland, and Northumberland, are certain estates called tenant-right estates, which are all held by the same customs, for the reason, so Mr. Justice FORTESCUE says, that these manors and counties anciently made one earldom, and consequently belonged to one earl, *viz.*, the Earl of Northumberland, and so in all probability there came to be the same customs in each manor. Examples of these estates are to be found in the manor of Cockermouth, in the county of Cumberland (*g*), and in the same county in the following manors, *viz.*, the manor of Westwood (*h*), the manor of Parton, Mickelwhaite, Neelhouse, and Cardewlees, in the parish of Dalston (*i*) the manor of Morland (*k*), in the county of Northumberland; in the manor of Henshaw, in the parish of Simonburn (*l*); the manor of Tyne-mouth or Tynemouthshire (*m*), in the county of Westmoreland; in the manors of Kirkby-Steven, Wharton, Nateby, Shap, Tebay, Langdale, Bretherdale, Reagill, Sleagill, Longmarton, and Brampton-Carhullan (*n*). And these estates are said to be held of the lord as of his manor, according to the custom of his manor, without saying that they are held at the will of the lord.

(4) **Common Characteristics of Special Customary Tenures.**—Therefore, in all these kinds of customary tenure it was a common characteristic that they were said to be held according to the custom of the manor, without saying at the will of the lord, which was the peculiar characteristic by which all these kinds of tenures were distinguished from the description of ordinary copyholds (*o*).

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(*c*) *Doe v. Danvers* (1806), 7 East, 299.

(*d*) *Vaughan v. Atkins* (1771), 5 Burr. 2765.

(*e*) *Thompson v. Hardinge* (1845), 1 C. B. 940.

(*f*) (1827) 3 M. & R. 133.

(*g*) *Duke of Somerset v. France* (1725), 1 Stra. 654.

(*h*) *Champion v. Atkinson* (1672), 3 Keb. 90.

(*i*) *Doe v. Huntington* (1803), 4 East. 271.

(*k*) *Stephenson v. Hill* (1762), 3 Burr. 1273.

(*l*) *Burrell v. Dodd* (1803), 3 Bos. & Pull. 377.

(*m*) *Brown v. Rawlins* (1806), 7 East, 409.

(*n*) *Lowther v. Raw* (1734), Fort. 44. (o) Co. Litt. 58a. Harg. n. 1.

But in all these kinds of tenure it was necessary that there should be an admittance by the lord in order to the due acquisition of the legal estate, and the proper evidence of the incidents of the tenure was by copy of court roll, just as in the case of ordinary copyholds, and these are among the chief characteristics by which all estates held on customary tenures are distinguished from frank tenements.

**(5) Right to Vote in respect of Special Customary Tenements previous to Reform Act, 1832.**—With regard to the tenant-right estates in the northern counties, it does not appear that the tenants ever made any claim to vote as freeholders in respect of such estates. And Lord MANSFIELD said in the case of *Stephenson v. Hill* (*p*), that it was a settled point that the freehold was in the lord (*q*).

Tenants in manors of ancient demesne holding according to the custom of those manors, and tenants holding according to the custom of other manors where the customs were similar, many times claimed to vote after the passing of the statute for the abolition of wards and liveries (*r*).

By that statute all feudal tenures other than free and common socage, or by copy of court roll, saving also the honorary services of grand serjeanty, were commuted to free and common socage, and this led to such a reduction of the practical consequences of the difference of tenures, that the legal notion of tenure itself was almost consigned to oblivion. These tenants therefore, holding for a freehold interest, since their estate was not determinable at the will of the lord like that of the ordinary copyholders, and being often called customary freeholders, claimed to vote as freeholders, and Lord Chief Baron COMYNS, writing some fifty years after the passing of the 12 Car. 2, c. 24, thought that they were entitled to do so (*s*). But Lord COKE, writing many years before the passing of that statute, says that they are no parties to the election of knights of the shire (*t*). And Lord Chief Baron GILBERT, writing in the reign of Geo. I., was of the same opinion (*u*). In the great Oxfordshire contest in 1755, the point came before the House of Commons, (*x*) and was strongly agitated, but the debate was adjourned by the previous question. In 1756 a Bill was brought in to settle the right of election, and

(*p*) (1762) 3 Burr. 1273.

(*q*) See also *Brown v. Rawlins* (1806), 7 East, 409.

(*r*) 12 Car. 2, c. 24 (1660).

(*s*) Com. Dig. Tit. Parliament D. 10.

(*t*) 4 Inst. 5.

(*u*) Hist. Ex. 30.

(*x*) 27 Com. Journ. 291.

SIR WILLIAM BLACKSTONE on this occasion, for the private use of some members of Parliament who wished to entertain a clearer idea of the matter in question than at that time generally prevailed, wrote a tract entitled, "Considerations on the question whether tenants by copy of court roll, according to the custom of the manor, though not at the will of the lord, are freeholders qualified to vote in the elections of knights of the shire." This tract clearly demonstrates that the tenants in question not holding by free and common socage, or in frankalmoign, must hold by the only other tenure which could still exist after the passing of the 12 Car. 2, c. 24, that is to say, by copy of court roll, and that although they may hold for a freehold interest, they do not hold by a frank tenure, whereby it appears that Lord COKE and Chief Baron GILBERT were justified in the opinion that they were not freeholders qualified to vote at such elections. The Bill, however, was laid aside for that session, but in 1758 was again brought in, which occasioned the immediate publication of BLACKSTONE's tract, and in a few months an Act was passed giving practical effect to BLACKSTONE's conclusions. This Act (*a*) provided that no person who held his estate by copy of court roll should be entitled thereby to vote at the election of any knight or knights of the shire within that part of Great Britain called England or the principality of Wales. And the Act imposed a penalty of 50*l.* for the breach of it. But notwithstanding this Act, the practice of customary freeholders voting continued in some counties. In the county of Leicestershire votes of tenants in ancient demesne were admitted in the contest of 1770, it not being material for either side to dispute the question.

### 3. RIGHT TO VOTE FOR CUSTOMARY TENEMENTS UNDER REFORM ACT, 1832.

By the Reform Act, 1832, s. 12, all kinds of customary tenants, having a qualification of the required value, viz., ten pounds, became entitled, subject to the provisions of the Act, to vote at county elections; and it is only on the question of value that the distinctions between the different kinds of tenure remain of practical importance.

A curious instance of customary tenure occurred in the case of *Garbutt v. Treror*, decided in 1863, under section 19 of the

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(*a*) 31 Geo. 2, c. 14. Repealed by the Statute Law Revision Act, 1867 (30 & 31 Vict. c. 59).



Reform Act, 1832 (*b*). That case was as follows, viz.: In the village of Staithes, in the manor of Seaton, in the North Riding of the County of Yorkshire, are houses held by tenants on the court roll of the manor, who are admitted tenants by the steward by entering their names on the court rolls of the manor, without mentioning for what extent of interest, and they take the oath of fealty, and pay a small rent by half-yearly payments to the lord. A change of tenancy often took place between the holdings of the manor courts by sale, pledge, devise, or intestate succession, but in every case admittance was necessary to complete the transfer, and admittance was sometimes withheld at the discretion of the lord, exercised by his agent and steward. The estate of such a tenant being of the requisite value, it was held that he was entitled to vote in respect thereof, under section 19 of the Reform Act, 1832 (*c*).

#### 4. MODERN RIGHT TO VOTE FOR CUSTOMARY TENEMENTS.

Tenants by other than free tenure continued to vote under section 19 of the Reform Act, 1832 (*d*), until the provisions of that section were superseded by section 5 of the Representation of the People Act, 1867 (*e*), but section 19 of the Reform Act, 1832, was not actually repealed until the Statute Law Revision Act, 1874 (*f*).

Section 5 of the Representation of the People Act, 1867 (*e*), under which tenants by other than free tenures now vote at county elections, provides that "every man shall in and after the year 1868 be entitled to be registered as a voter, and when registered to vote for a member or members to serve in Parliament for a county, who is qualified as follows, that is to say (*inter alia*), is seised at law or in equity of any lands or tenements of freehold, copyhold, or any other tenure whatever, for his own life, or for the life of another, or for any lives whatsoever, or for any larger estate of the clear yearly value of *not less than five pounds*, over and above all rents and charges payable out of, or in respect of the same." Provided that no person shall be registered as a voter under this section unless he has complied with the provisions of section 26 (*g*) of the Reform Act, 1832.

(*b*) 2 & 3 Will. 4, c. 45.

(*c*) *Garbutt v. Trevor* (1863), 15 C. B. (N.S.) 550.

(*d*) 2 & 3 Will. 4, c. 45.

(*e*) 30 & 31 Vict. c. 102.

(*f*) 37 & 38 Vict. c. 35.

(*g*) This is the section requiring possession for six calendar months.

## 5. VALUE OF CUSTOMARY TENEMENTS.

The chief alteration effected by this section is to reduce the requisite value from ten to five pounds over and above all rents and charges payable out of, or in respect of the lands or tenements.

The observations already made as to the principles upon which the value of the freehold should be ascertained, and what deductions should be made under the head of rents and charges payable out of or in respect of the same, are equally applicable *mutatis mutandis* to the case of lands and tenements holden by other than free tenures (*h*).

## 6. COPYHOLD OR CUSTOMARY TENEMENTS IN A BOROUGH.

Where copyhold or customary tenements which would otherwise give the owner the right to be registered as a voter, and to vote at elections for the county, are situate within the limits of a parliamentary borough, the right of the owner to be so registered is subject to the provisions of section 25 of the Reform Act, 1832 (*i*), which section also affects qualifications created by the Representation of the People Act, 1867 (*j*), by reason of section 59 of the later Act.

Section 25 of the Reform Act, 1832, enacted (amongst other things) that no person should be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament in respect of his estate or interest as a copyholder or customary tenant, or tenant in ancient demesne, holding by copy of court roll, in any house, warehouse, counting-house, shop, or other building, or in any land occupied together with a house, warehouse, counting-house, shop, or other building, such house, warehouse, counting-house, shop, or other building being either separately or jointly with the land so occupied therewith, of such value as would, according to the provisions hereinafter contained (*k*), confer on him or on any other person the right of voting for any city or borough, whether he or any other person shall or shall not have actually acquired the right to vote for such city or borough in respect thereof.

This is a more severe restriction than that applied under section 24 in respect of freeholds, inasmuch as the freeholder might vote unless he himself occupied, but the copyholder may not vote even if any person other than he himself occupies (*l*).

(*h*) *Ante*, p. 55, *et seq.*

(*i*) 2 & 3 Will. 4, c. 45.

(*j*) 30 & 31 Vict. c. 102.

(*k*) *I.e.*, ss. 27 & 28.

(*l*) There was no such distinction made under the Irish Reform Act, 1832 (2 & 3 Will. 4, c. 88), s. 4. But the more severe restriction is generally adopted by the amending Irish Act of 1850 (13 & 14 Vict. c. 69), s. 4.

It was decided in *Webb v. The Overseers of Aston near Birmingham*, in 1843 (with reference to leaseholds, which are also included in section 25, and the case, therefore, is of equal authority as regards copyhold and customary tenements), that the restriction contained in the section is partial, so that, for instance, a party who holds within a borough three several and distinct tenements of which one only is of sufficient value to confer a vote for the borough, and the separate value of each of the others is insufficient for such purpose, but the aggregate value of both the others is sufficient to confer a vote for the county, is entitled to be registered as a voter for the county in respect of the two latter tenements notwithstanding the value of the first tenement (*m*).

But it is otherwise if the tenements could legally be regarded as forming one single house. For it was held in *Proctor v. Annison*, in 1859, where the tenement consisted of a single house of such value (*i.e.*, at the present time five pounds) as would, but for its situation, have entitled the owner to be registered, that, although the house, as a matter of fact, was let out to separate tenants in such a manner as would have given them a qualification for the borough for separate tenements if such separate tenements had been (as in that case they were not) of sufficient value, nevertheless the letting did not make the single house equivalent to separate houses during the time it was so occupied (*n*).

After the right of voting in respect of copyhold and customary tenants conferred by section 19 of the Reform Act, 1832, was superseded by the right conferred by section 5 of the Representation of the People Act, 1867, and after the inhabitant occupiers' franchise had been created by section 3 of the same Act, it was decided in *Bunting's case* in 1868 (with reference to leaseholds which are also included in section 25 of the Reform Act, 1832), that a person was not entitled to be registered as a voter for the county under section 20 of the Reform Act, 1832, as a sixty years' tenant of premises which would confer on him or any other person the right of being registered as a voter for the borough under section 3 of the Representation of the People Act, 1867, as an inhabitant occupier of such premises, because, by section 59 of the later Act, the two Acts are to be read together as one so far as consistently possible, and with special reference to section 25 of the earlier Act (*o*).

(*m*) *Webb v. The Overseers of Aston near Birmingham* (1843), 5 M. & G. 14.

(*n*) *Proctor v. Annison* (1859), 7 C. B. (N.S.) 48.

(*o*) *Chorlton v. Johnson* : *Bunting's case* (1868), L. R. 4 C. P. 426.

For the same reason, therefore, no person may be registered as a voter or vote at elections for the county under section 5 of the Representation of the People Act, 1867 (*p*), as the copyholder or customary owner of premises within a city or borough, which would confer on him or any other person the right of voting for the city or borough whether such right has been actually acquired or not. As regards value, such questions as were settled in *Webb v. The Overseers of Aston near Birmingham*, and *Proctor v. Annison*, are not likely to arise except in respect of tenements used for commercial purposes, because there is no necessity, under section 3 of the Representation of the People Act, 1867 (*p*), that a dwelling-house, for the purposes of the inhabitant occupiers' franchise conferred by that section, should be of any particular value (*q*).

#### 7. ALIENATION OF COPYHOLD AND CUSTOMARY TENEMENTS.

The right to be registered as a voter and vote in respect of copyhold and customary tenements being made incident to the estate in the land by the statutes in that behalf in the same manner as to freeholds by the common law, it is consequently divested by every alienation in the like manner as upon alienation of freeholds.

(1) **By act of Parties.**—As to the alienation by act of parties, the ordinary method is by surrender and admittance. Upon a surrender and before admittance the whole legal estate remains in the surrenderor, and he has a right to retain the possession subject to accounting for the mesne profits if the surrenderee be afterwards admitted; and if the surrenderor die the estate devolves upon his heir (*r*). But the surrenderor and his heir are each of them successively a trustee for the surrenderee (*s*), and cannot therefore vote or be registered as voters in respect of their interest after surrender and before admittance, because they are no longer entitled for their own benefit.

Whether the Splitting Acts, viz., the statutes of the 7 & 8 Will. 3, c. 25, the 10 Anne, c. 23, and the 53 Geo. 3, c. 49, which were passed previously to the creation of the franchise in respect of customary estates and interests, could be applied to conveyances or devises of such estates and interests, has never been decided.

(*p*) 30 & 31 Vict. c. 102. (*q*) But see *Owens v. Harrihan*, *post*, p. 192.

(*r*) *Per* Lord ELLENBOROUGH, C.J., in *Doe d. Toft v. Toft* (1809), 11 East, 250; see *Minton v. Kirwood* (1868), L. R. 3 Ch. 614; *Lines v. Lines* (1870), 22 L. T. 400.

(*s*) *Darrie v. Beersham* (1661), 3 Chan. Rep. 3; *Holdfast v. Clapham* (1787), 1 T. R. 601.



Probably, as those Acts have been held (*t*) to be only declaratory of the common law, the same principles would be applied to such conveyances or devises.

The provisions of section 26 of the Reform Act, 1832 (*u*), viz., as to possession for six months, are the same whether the estate or interest of the person entitled to lands and tenements in respect of which he claims to be registered is as a freeholder, copyholder, customary tenant, or tenant in ancient demesne, and have been already considered in respect of freehold (*v*). The same remarks will therefore apply to customary estates and interests.

(2) **By Operation of Law.**—As regards the right to be registered as a voter and to vote in respect of copyhold or customary tenements or any like property passing by surrender and admittance, the adjudication in bankruptcy of the tenant has the same effect under sub-section (4) of section 50 of the Bankruptcy Act, 1883 (*x*), as if the bankrupt had surrendered the property, and his right to be registered as a voter in respect of such property ceases upon adjudication exactly as it would have ceased upon surrender.

### III.—LEASEHOLDS.

*A person entitled to be registered as a parliamentary elector in a county in respect of a leasehold ownership qualification—*

(A.) *Must, on the fifteenth day of July in the year in which such person is to be registered, be entitled either at law or in equity as lessee, sub-lessee, or assignee, to, and if as sub-lessee or assignee of any underlease must be in actual occupation of (y), lands or tenements, either—*

(i.) *for the whole of the unexpired residue of a term originally created for a period of not less than sixty years, of the clear yearly value of not less than five pounds over and above all rents and charges payable out of or in respect of the same (z); or*

(ii.) *for the whole of the unexpired residue of a term originally created for a period of not less than twenty years, of the clear yearly value of fifty pounds over and above all rents and charges payable out of or in respect of the same (a); and*

(*t*) *Alexander v. Newman* (1846), 2 C. B. 122.

(*u*) 2 & 3 Will. 4, c. 45.

(*v*) *Ante*, p. 73.

(*x*) 46 & 47 Vict. c. 52.

(*y*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 20; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), ss. 56, 59.

(*z*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 5.

(*a*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 20.

(B.) *must have been in the actual possession or receipt of the rents and profits of such lands or tenements to his own use for the whole of the twelve calendar months next previous to the fifteenth day of July, the year in which he is to be registered, unless such lands or tenements have come to him within such twelve months by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church or to any office (b).*

Before the passing of the Registration Act, 1885 (*c*), a fifty pound rental qualification (*post*, p. 100) was reckoned an ownership qualification, but by section 11 of that Act a person entitled to be registered as a fifty pounds' rental voter shall be registered as an occupation and not as an ownership voter (*d*).

The definition of a fifty pound rental voter is therefore reserved until after the discussion of leasehold ownership qualifications (*e*).

The subject of LEASEHOLD OWNERSHIP QUALIFICATIONS may be discussed under the heads of

1. DEFINITIONS AND HISTORY PREVIOUS TO THE REFORM ACT, 1832 (p. 86).
2. RIGHT TO VOTE FOR LEASEHOLDS (p. 88), considered specially (1) in the reference to the nature of the tenement which must be (A) capable of actual occupation; (B) if situate within a borough, not such as to confer the right to vote for the borough; (2) with reference to the interest of the tenant which must be (A) an interest in a term; (B) such term being required to be a legal term although (c) the interest need only be an equitable interest so long as (D) the interest is in any case, an interest for the whole of the unexpired residue of the term, although merely (E) the interest of a sub-lessee.
3. ALIENATION OF LEASEHOLDS (p. 98); (1) voluntary or (2) involuntary.

#### 1. DEFINITIONS AND HISTORY PREVIOUS TO REFORM ACT, 1832.

At the time of the passing of the statute 8 Hen. 6, c. 7 (*f*), leasehold interests were well known.

(b) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 26; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), ss. 56, 59.

(c) 48 & 49 Vict. c. 15, May 21st, 1885.

(d) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 11.

(e) *Post*, p. 100.

(f) *Forty shilling freeholders Act, 1429*.

A lease is properly a conveyance of any lands or tenements (usually in consideration of rent or other annual recompense) made for life, for years, or at will, but always for a less time than the lessor hath in the premises; for if it be for the whole interest, it is more properly an assignment than a lease (*g*).

An assignment is properly a transfer or making over of the right one has in any estate; but it is usually applied to an estate for life or years. And it differs from a lease only in this: that by a lease one grants an interest less than his own, reserving to himself a reversion; in assignments he parts with the whole property (*h*).

If land is transferred for the entire residue of the term, it is an assignment, although the assignor may have used words of demise and, by reserving rent or otherwise, have endeavoured to preserve a reversion in himself; as, on the other hand, an assignment so called for a portion of the term, less by only one day than the residue, is an under-lease.

The names lessor and lessee are properly applied "where a man letteth to another lands or tenements for terme of life, or for terme of yeares or to hold at will." But lessee for life only has a frank tenement, but not lessee for years or at will (*i*).

The interest of a termor or lessee for years had come to be recognized as an estate in the land possibly as early as the reign of Henry III., some hundred and fifty years at least before the passing of the statute 8 Hen. 6, c. 7 (*k*). But he was not protected at all points against ejectment, even when Littleton wrote some fifty years after the 8 Hen. 6 (*l*), nor until the passing of the statute 21 Hen. 8, c. 15, and the invention of the writ of *quare ejecit infra terminum* (*m*).

But the interest of lessee for years was not a frank tenement, for two reasons. In the first place, no tenure subsisted between the lessor and the lessee—there was no feudal tie between them created by oath of fealty; and in the second place, the lessee for years had not a freehold interest, for the term, however long, was certain and determinate, whereas a freehold interest was distinguished by the incertainty of its duration, even in the case of an estate for life, for, as Bracton says, although nothing is

(*g*) 2 Bl. Comm. 317.

(*h*) *Id.* 326.

(*i*) Litt. s. 57.

(*k*) See Bracton, lib. iv. c. 36, f. 220.

(*l*) See Co. Litt. 46a.

(*m*) F. N. B. 198a; Co. Litt. 46a. (And see generally the note to *Doc v. Errington*, 1 A. & E. 756.)

more certain than death, yet nothing is more uncertain than the hour of death (*n*).

Therefore lessee for years was *not* qualified to vote at the elections of knights of the shire under the 8 Hen. 6, c. 7.

“A tenant-at-will is where lands and tenements are let by one man to another to have and to hold to him at the will of the lessor, by force of which lease the lessee is in possession. In this case the lessee is called tenant-at-will, because he hath no certain or sure estate, for the lessor may put him out at what time it pleaseth him (*o*).

“It is regularly true that every lease at will must in law be at the will of both parties, and therefore when the lease is made, to have and to hold at the will of the lessor, the law implyeth it to be at the will of the lessee also; for it cannot be only at the will of the lessor, but it must be at the will of the lessee also” (*p*).

In the above passages both LITTLETON and Lord COKE must be understood to speak of lands that are holden by free services, for if the lands were of base tenure and holden at the will of the lord, according to the custom of a manor, the will was the will of the lord only, although the estates of the tenant came to be by law protected against arbitrary determination by the lord (*q*).

But although a tenant at will thus held by free services, he did not hold for a freehold interest, and was not therefore, qualified to vote by 8 Hen. 6, c. 7.

## 2. RIGHT TO VOTE FOR LEASEHOLDS.

The right of voting at the elections of knights of the shire was first extended to lessees for years by section 20 of the Reform Act, 1832, commonly called the Chandos clause, whereby it was enacted that “every male person of full age and not subject to any legal incapacity, who shall be entitled, either as lessee or assignee, to any lands or tenements, whether of freehold or of any other tenure whatever, [*for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years (whether determinable on a life or lives or not), of the clear yearly value of not less than ten pounds over and above all rents and charges payable out of or in respect of the same*] (*r*), or for the unexpired residue, whatever it may be, of any term

(*n*) Lib. ii. c. 9, f. 27.

(*o*) Litt. s. 68.

(*p*) Co. Litt. 55a. and *per* BRUDNELL, C.J., Y. B. M. 14 H. 8, 14.

(*q*) See Co. Cop. ss. 8, 9.

(*r*) Words in brackets in italics were repealed by the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), and replaced by s. 5 of that Act. See *post*, p. 90.



originally created for a period of not less than twenty years (whether determinable on a life or lives or not), of the clear yearly value of not less than fifty pounds over and above all rents and charges payable out of or in respect of the same, [*or who shall occupy as tenant any lands or tenements for which he shall be bonâ fide liable to a yearly rent of not less than fifty pounds (s)*], shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament for the county, or for the riding, parts or division of the county, in which such lands or tenements shall be respectively situate: Provided always, that no person being only a sub-lessee, or the assignee of any under-lease, shall have the right to vote in such election in respect of any such term of sixty years or twenty years as aforesaid, unless he shall be in the actual occupation of the premises (*t*).

And by section 25 of the same Act it was enacted that "notwithstanding anything hereinbefore contained, no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament, in respect of his estate or interest as such lessee or assignee, or as such tenant and occupier as aforesaid, in any house, warehouse, counting-house, shop or other building, or in any land occupied together with a house, warehouse, counting-house, shop or other building, being either separately or jointly with the land so occupied therewith, of such value as would, according to the provisions hereinafter contained, confer on him or on any other person the right of voting for any city or borough, whether he or any other person shall or shall not have actually acquired the right to vote for such city or borough in respect thereof (*u*).

And by section 26 of the same Act: "That notwithstanding anything hereinbefore contained, no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament unless he shall have been duly registered; and that no person shall be so registered in any year in respect of any lands or tenements . . . held by him as such lessee or assignee, or as such tenant and occupier as aforesaid, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, as the case may require, for twelve calendar months next previous to the *last*"

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(s) Words in brackets in italics were repealed by the Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 12, Sched. 2, Part 1. See *post*, p. 91.

(t) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 20.

(u) *Id.* s. 25.

(now the fifteenth) (x) "day of July in such year; provided always that where any lands or tenements which would otherwise entitle the owner, holder, or occupier thereof to vote in any such election shall come to any person at any time within such period of twelve calendar months by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or by promotion to any office, such person shall be entitled in respect thereof to have his name inserted as a voter in the election of a knight or knights of the shire in the lists then next to be made . . . and upon his being duly registered . . . to vote in such election" (y).

These enactments continued to embody the law as to leasehold qualifications without alteration until the passing of the Representation of the People Act, 1867.

The qualification created in respect of the unexpired residue of a sixty years' term at a ten pound rent was then superseded by the provisions of section 5 of the Representation of the People Act, 1867, whereby it was enacted that "every man shall in and after the year 1868 be entitled to be registered as a voter, and when registered to vote for a member or members to serve in Parliament for a county, who is qualified as follows, that is to say (*inter alia*) who is entitled either as lessee or assignee to any lands or tenements of freehold or of any other tenure whatever for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years (whether determinable on a life or lives or not), of the clear yearly value of not less than five pounds over and above all rents and charges payable out of or in respect of the same: Provided that no person shall be registered as a voter under this section unless he has complied with the provisions of section 26 (z) of the Act of the second year of the reign of His Majesty William the Fourth, chapter forty-five" (a).

And by section 59 of the same Act: "This Act, so far as is consistent with the tenor thereof, shall be construed as one with the enactments for the time being in force relating to the representation of the people and with the Registration Acts; and in construing the provisions of sections 24 and 25 of the Act of the

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(x) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 12.

(y) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 26.

(z) This is the section of the Reform Act, 1832, requiring possession for a certain period and registration.

(a) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 5.

second year of King William the Fourth, chapter forty-five, the expressions 'the provisions hereinafter contained' and 'as afore-said' shall be deemed to refer to the provisions of this Act conferring rights to vote as well as to the provisions of the said Act" (b).

Section 5 of the Representation of the People Act, 1867, using exactly the same words, except as to the amount of rent, as are used in the corresponding part of section 20 of the Reform Act, 1832, that part including the following words, viz., "for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years (whether determinable on a life or lives or not), of the clear yearly value of not less than ten pounds over and above all rents and charges payable out of or in respect of the same," was directly repealed by the Statute Law Revision Act, 1874 (c).

And lastly, by section 12 and the first part of schedule 2 of the Representation of the People Act, 1884, the words "or who shall occupy as tenant any lands or tenements for which he shall be *bonâ fide* liable to a yearly rent of not less than fifty pounds," contained in section 20 of the Reform Act, 1832, were repealed, except in so far as relates to the rights of persons saved by the Act (d), which saving is by section 10 as follows, viz., "nothing in this Act shall deprive any person (who at the date of the passing of this Act is registered in respect of any qualification to vote for any county or borough) of his right to be from time to time registered, and to vote for such county or borough in respect of such qualification, in like manner as if this Act had not passed" (e).

And in the proviso to the same section, "nothing in this Act shall confer on any man who is subject to any legal incapacity to be registered as a voter or to vote any right to be registered as a voter or to vote" (e).

So far as these enactments create a leasehold ownership qualification as already defined (f), the points to which it is necessary to call attention are as follows, that is to say, first, with respect to the nature of the tenements which may be the subject of the qualification; secondly, as to the interest in respect of which a person may be entitled to be registered.

(b) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 59.

(c) 37 & 38 Vict. c. 35.

(d) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 12, sched. 2, pt. 1.

(e) *Id.* s. 10.

(f) *Ante*, p. 85.

(1) **As to the Tenement.**—(a) *Capable of Actual Occupation.*—First, the tenements must be capable of an actual occupation, and not of an incorporeal nature, as, for instance, a rent-charge.

With regard to twenty years tenants at a fifty pounds rent, this is evident from the proviso to section 20 of the Reform Act, 1832, and so also as to sixty years tenants whilst they were qualified under the same section.

And it was held to be law also in respect of sixty years tenants at a five pounds rent under section 5 of the Representation of the People Act, 1867, in the case of *Warburton v. The Overseers of Denton*, which was decided in 1870, at a time when the provisions of section 20 of the Reform Act, 1832, with regard to sixty years tenants at a ten pound rent were superseded by the provisions of section 5 of the Representation of the People Act, 1867, with regard to sixty years tenants at a five pound rent, but before the former provisions were expressly repealed by the Statute Law Revision Act, 1874 (g).

In *Warburton v. The Overseers of Denton* the facts were that a person claimed to be registered as a voter and to vote in respect of a chattel rent-charge created by deed, whereby certain lands were conveyed to trustees for a term of one hundred years, determinable on lives, to the use that the claimant, his executors, and administrators should receive a yearly rent-charge of ten pounds out of the rents and profits; and the court held that the claimant was not entitled to be registered in respect of it (h).

It might have been given as the reason for this decision that a chattel rent-charge is not “land,” nor is it a “tenement,” not being the subject of tenure; and that therefore the claimant had not any interest in “lands or tenements” as required by the Act (i).

This reason would have been sufficient for the decision of the case, and if it had been given the case would not go so far as to be an absolute authority for the proposition above stated. The reason actually given was that section 5 of the Representation of the People Act, 1867, does not alter the nature of the subject-matter of the qualification, but simply reduces the amount of rent required from ten to five pounds. And that was also the *ratio decidendi* in *Chorlton v. The Overseers of Stretford*, so that *Warburton v. The Overseers of Denton* does not stand entirely

(g) 37 & 38 Vict. c. 35.

(h) *Warburton v. The Overseers of Denton* (1870), L. R. 6 C. P. 267.

(i) See the judgment of WILLES, J., in *Chorlton v. The Overseers of Stretford* (1871), L. R. 7 C. P. at p. 200.



unsupported as an authority to the full extent of the proposition as above stated.

(b.) *Situate within a Borough*.—Secondly, the tenements, if situate within a borough, must not be such as would confer on any occupier the right to vote for the borough, whether such right shall have been actually acquired by any occupier or not.

This was expressly enacted, so far as regards the ten pounds occupation qualification in boroughs under section 27 of the Reform Act, 1832, by section 25 of the same Act.

And it was held to be law also with respect to a household qualification under section 5 of the Representation of the People Act, 1867, by virtue of section 59 of the same Act in *Bunting's case*.

In *Bunting's case*, which was decided in 1868, a person claimed to be registered as a voter for the county of Lancashire as a sixty years tenant of premises situate in the borough of Manchester, which would have conferred upon the occupier the right to be registered as a voter for the borough under section 3 of the Representation of the People Act, 1867, and the court held that the restrictions contained in section 25 of the Reform Act, 1832, were applicable under section 59 of the Representation of the People Act, 1867, to the right to be registered as a voter for the county in respect of the unexpired residue of a sixty years' term in premises capable of conferring upon the inhabitant occupier the right to be registered under section 3 of the last-mentioned Act, and that therefore the claimant was not entitled to be registered as a voter for the county in respect of his leasehold interest in the premises (k).

But in so far as the restriction applies to leasehold tenements situate within a borough, which are still required to be of a certain value in order to qualify the occupier to be registered as a voter, and to vote for the borough, it was held in the case of *Webb v. The Overseers of Aston near Birmingham*, in 1843, that the restriction is partial; so that, for instance, a party who holds as lessee several and distinct tenements situate within a borough, whereof one only is of sufficient value to confer a vote for the borough, and the separate value of each of the others is insufficient for such purpose, but the aggregate value of both of the others is sufficient to confer a vote for the county, is entitled to be registered as a voter for the county in respect of the two latter tenements, notwithstanding the value of the first tenement (l).

(k) *Chorlton v. Johnson*; *Bunting's case* (1868), L. R. 4 C. P. 426.

(l) *Webb v. The Overseers of Aston near Birmingham* (1843), 5 M. & G. 114.

And this decision remains an authority, although that part of section 20 of the Reform Act of 1832 (*m*) which confers the franchise on lessees or assignees for the unexpired residue of a sixty years' term of the clear yearly value of ten pounds, is now repealed and superseded by section 5 of the Representation of the People Act, 1867 (*n*), which confers the franchise on lessees or assignees, for the unexpired residue of a sixty years' term of the clear yearly value of five pounds, because not only has it been held more than once that the later enactment merely reduces the value required by the earlier, without creating a different kind of qualification (*o*), but also because the general ground of the decision in *Bunting's case* was that the restrictions contained in section 25 of the Reform Act, 1832, were applicable under section 59 of the Representation of the People Act, 1867, to qualifications created by the latter Act, so far as consistent with the tenor thereof (*p*).

(2) **As to the Interest of the Tenant.**—With respect to the necessary interest in the lands and tenements—

(a.) *Interest in a Term.*—First, the interest of the person claiming to be registered must be an interest in a term. Unless a term has been actually created in the lands and tenements, in which term the person claiming to be registered has an interest, he has no such interest as entitles him to be registered under either Act.

This was decided in *Trotter v. Watson*, in 1868, with reference to a claim to be registered under section 5 of the Representation of the People Act, 1867, and the reasons for that decision are equally applicable to claims to be registered under section 20 of the Reform Act of 1832.

In *Trotter v. Watson*, one Robert Anderson claimed to be entitled to be registered as a voter, and to vote at the elections of members for the northern division of the county of Durham, under the following circumstances. Sir Walter and Lady James, as owners in fee of certain lands in the county, agreed with the trustees of a building society and one Clayton, that Clayton should advance money to the trustees for building workmen's dwelling-houses on the land, on the security of the property, and Sir Walter and Lady James were to grant leases of the site of each house for ninety-nine years, at a rent of 9s. 6d. per annum, when and so soon as Clayton, with the consent in writing of the trustees of the building

(*m*) 2 & 3 Will. 4, c. 45.

(*n*) 30 & 31 Vict. c. 102.

(*o*) *Warburton v. The Overseers of Denton* (1870), L. R. 6 C. P. 267; *Chorlton v. The Overseers of Stritford* (1871), L. R. 7 C. P. 198.

(*p*) *Chorlton v. Johnson*; *Bunting's case* (1868), L. R. 4 C. P. 426.

society, should require the same to be granted. The trustees subsequently agreed with Anderson to sell him one of the houses for a term of ninety-nine years, subject to an annual ground rent of 9s. 6d., payable to Sir Walter James, the purchase money to be paid by instalments, and Anderson to have immediate possession; and, on payment of all the moneys due under the agreement and the rules of the society, and observance of all the covenants of the agreement and rules of the society, the trustees were to give Anderson a proper conveyance. The money due under the agreement had not been paid, Clayton had not asked for a lease for Anderson, nor had the trustees consented in writing to his so doing. Held, that Anderson not having even a right to call for a lease, was not entitled either at law or in equity to any interest in a term in the dwelling-house within section 5 of the Representation of the People Act, 1867 (*q*), and was therefore not entitled to be registered as a voter in respect of his interest therein (*r*).

(b.) *Equitable Terms*.—Secondly, it is doubtful whether the term may be purely equitable or must be legal.

In *Trotter v. Watson* it was not necessary to decide the point, for even assuming it in favour of the claimant in that case, it was there held that the claimant was not entitled to be registered, because no term of any sort had been created (*s*). KEATING, J., is reported to have said that he doubted considerably whether a mere equitable term would do (*t*).

(c.) *Equitable Interest in Legal Terms*.—Thirdly, it seems that it would be sufficient if the interest of the tenant is only an equitable interest in the whole of the unexpired residue of an ascertained legal term of the required length and value, provided that he is and has been for the required period in actual possession or receipt of the rents and profits.

This point has never been raised for decision in England, but it has been so decided in Ireland upon the similar enactments of the Irish Reform Act in *Vance's case*. But even in that case the claim to be registered was rejected for another reason, viz., that the claimant had not been in possession for the required period previous to his claim to be registered.

In *Vance's case* the facts, so far as they affect the present point, were as follows:—

Richard Vance claimed to be registered as a ten-pound leaseholder of the county of the city of Dublin, and it appeared that

(*q*) 30 & 31 Vict. c. 102.

(*r*) *Trotter v. Watson* (1869), L. R. 4 C. P. 434.

(*s*) L. R. 4 C. P. 434.

(*t*) On p. 452.

his father, James Vance, being possessed of a legal term of nine hundred and ninety-nine years in certain houses and premises in the city, by his will devised the same to trustees, in trust for his three younger sons (who were all then minors) until they should respectively attain the age of twenty-one years, and then to assign the same to them as tenants in common. The claimant had attained his age of twenty-one years, and was entitled to upwards of ten pounds profit rent from the premises, but no assignment had been made to him by the trustees.

Upon the objection that the claimant, having only an equitable estate, was not entitled to register thereout, CRAMPTON, J., held that section 47 of the Irish Reform Act (*u*) was expressly applicable to the point, being quite general and not confined to the case of freeholds, and affirmatively enacting that the *cestui que trust* in actual receipt of the rents and profits had the right (*x*).

And in the case of *Trotter v. Watson*, KEATING, J., is reported to have said that, "finding it to have been decided by CRAMPTON, J., an Irish Judge of great authority, that an equitable interest in a leasehold legally created is enough to satisfy the similar enactments of the Irish Reform Act (2 & 3 Will. 4, c. 88), I yield to the opinion that an equitable interest in an ascertained legal term of the required length and value will give the franchise" (*y*).

(d.) *Whole of Unexpired Residue*.—Fourthly, the tenant must be entitled to the whole of the unexpired residue of the term, whether originally created for not less than sixty years or not less than twenty years.

This means that if the claim is based upon an equitable interest, the tenant must be entitled to the whole interest in equity in the whole of the unexpired residue of the term.

This was decided in *Gainsford v. Freeman*, in 1865, with reference to a claim to be registered under section 20 of the Reform Act, 1832, in respect of the unexpired residue of a term originally created for not less than sixty years, of the clear yearly value of not less than ten pounds, and is equally applicable to claims under section 5 of the Representation of the People Act, 1867, in respect of the residue of a term originally created for not less than sixty years, of the clear yearly value of not less than five pounds, and also to claims under section 20 of the Reform Act, 1832, in respect of the residue of a term originally created for not less than twenty years, of the clear yearly value of not less than fifty pounds.

(*u*) 2 & 3 Will. 4, c. 88.

(*x*) *Vance's case* (1840), Ale. R. C. R. 269.

(*y*) L. R. 4 C. P. p. 452.



In *Gainsford v. Freeman*, the facts were that one John Chadwick Jackson claimed to be registered under section 20 of the Reform Act, 1832, in respect of one-sixth share of fourteen leasehold cottages, held for a term of nine hundred and ninety-nine years. It appeared that the claimant's father, being possessed of these cottages for the term above mentioned, by his will vested all his real and personal estate in trustees upon trust, amongst other things, as to one undivided sixth share of his said estate, to pay the rents and profits to the claimant during his life, and after his death in trust for the claimant's children, to be divided amongst them, if more than one, in equal shares as tenants in common. The annual income of one-sixth share amounted to more than ten pounds per annum. The court held that the beneficial interest of the claimant in the term being subject to be defeated by his death, he was not entitled to be registered as beneficially entitled to the *whole* of the unexpired residue of a term as required by the Act (z).

It is probable that the claimant would not have been entitled to be registered had his interest been legal and not equitable. For supposing there had been a direct devise of the term to the claimant for life, with a quasi-remainder over to his children, then the whole legal estate in the residue in the term would have vested in the claimant, but the gift over would have been good by way of executory devise (a), and the claimant could not have assigned during his lifetime any interest not liable to be defeated by his death, just as under the devise in *Gainsford v. Freeman* (b).

(e.) *Sub-lessees*.—Fifthly, even where the claim is made, under section 5 of the Representation of the People Act, 1867, in respect of the whole of the unexpired residue of a term originally created for not less than sixty years, of the clear yearly value of not less than five pounds, the interest of the tenant may be that of a sub-lessee.

It is true that sub-lessees are not mentioned in section 5 of the Representation of the People Act, 1867, but it was held in the case of *Chorlton v. The Overseers of Stretford*, in 1871, that the term "lessee" in that section included a sub-lessee, and that the expression "originally created," as used in that section in describing the term, does not mean created only by the freeholder,

(z) *Gainsford v. Freeman* (1865), L. R. 1 C. P. 129.

(a) *Manning's Case*, 8 Co. Rep. 95; *Lampet's Case*, 10 Co. Rep. 47.

(b) See *per* BYLES, J., L. R. 1 C. P. on p. 132, and *Cotton v. Heath*, 1 Eq. Abr. 191, pl. 2. *Fearne Cont. Rem.* 401 *et seq.*

but merely has reference to the inception of the term by whomsoever created, because that section is not merely *in pari materia*, but is dealing with the very same subject-matter as the corresponding part of section 20 of the Reform Act, 1832.

In that case, Thomas Sowood claimed to be entitled to vote at the election of knights of the shire for the south-eastern division of Lancashire, being the sub-lessee for a period of not less than sixty years, and in actual occupation of a house, the clear yearly value of which was 5*l.*, but under 10*l.*, over and above all rents and charges payable in respect of the same. The court held that he was entitled to be registered as a voter in respect thereof (*c*).

It is to be observed, however, that the proviso to section 20 of the Reform Act, 1832 (*d*), whereby sub-lessees were prohibited from voting unless they were in actual occupation, is not in terms repeated in section 5 of the Representation of the People Act, 1867, but in the case just cited it appears, from one of the reports of the case (*e*), that both WILLES and BRETT, J.J., expressed an opinion that, by virtue of sections 56 and 59 of the later Act, the proviso in section 20 of the former Act should be read into section 5 of the later Act. "Should the contrary be held, it will follow that whereas a sub-lessee of a term over twenty years is, by virtue of the above-mentioned proviso, incapable of voting as such unless in actual occupation, a sub-lessee of a term originally created for not less than sixty years will be under no such restriction" (*f*). As WILLES, J., points out (*g*), great abuses might result from splitting up the term for the purpose of creating votes.

### 3. ALIENATION OF LEASEHOLDS.

The alienation of the voter's interest in a leasehold qualification divests the right to vote and to be registered as a voter in the same manner as the alienation of other qualifications.

(1) **Voluntary Alienations.**—Voluntary alienations of leaseholds are generally by way of assignment or by way of underlease.

Whether these kinds of qualification are subject to the statutes against fraudulent and occasional conveyances and devises passed previously to the Reform Act, 1832, has never been directly decided.

(*c*) *Chorlton v. Overseers of Stretford* (1871), L. R. 7 C. P. 198.

(*d*) 2 & 3 Will 4, c. 45.

(*e*) 1 Hopw. & Colt, pp. 716, 717. See also *per* BRETT, J., L. R. 7 C. P. on p. 201.

(*f*) Saint's Reg. Ca. 3rd ed. p. 100, note.

(*g*) L. R. 7 C. P. p. 200.

In 1846, in the case of *Rawlins v. Bremner* (*h*), CRESSWELL, J., is reported to have said that the statute of William III. (*i*) could not apply to leaseholders, who for the first time acquired a right to vote under the Reform Act of 1832 (*k*). To which Arnold, counsel for the respondent, replied, "They would probably come within the equity of the statute of William III." Possibly this means, since it was held (*l*) that the statute of William III. is merely declaratory of the common law, that the same principles which are applied in the case of freeholds by force of the statute would be applied to leaseholds by force of the common law.

Section 26 of the Reform Act, 1832 (*m*), imposed on all alike, whether sixty year tenants at a ten pound rent, twenty year tenants at a fifty pound rent, or fifty pound rental voters, the same conditions as to registration and possession for a certain period. And the same conditions were expressly continued by the Representation of the People Act, 1867 (*n*), when the rent required of sixty year tenants was reduced from ten to five pounds by that section.

The required period of possession in all cases is for twelve calendar months next previous to July 15th in the year in which the person is to be registered (*o*), unless the lands or tenements shall have come to the person claiming to be registered in respect thereof within such period by descent, succession, marriage, marriage-settlement, devise, or promotion to any benefice or office. These exceptions have been already considered with regard to freeholds (*p*).

**(2) Involuntary Alienations.**—As to the alienation of leaseholds, and consequently of the right to be registered as a voter and to vote in respect of leasehold property by operation of law, as by bankruptcy, at the period when an assignment was necessary to vest the bankrupt's property in his assignees, it was held that the legal interest in a lease continued in the bankrupt until the assignees elected to take it (*q*). Until such election, therefore, it seems that a bankrupt continued to be entitled to be registered and to vote in respect of his interest in the property.

But under the present law the legal interest vests in the trustee

(*h*) 2 C. B. 167. (*l*) *Alexander v. Newman* (1846), 2 C. B. 122.

(*i*) 7 & 8 Will. 3, c. 25 (1695). (*m*) 2 & 3 Will. 4, c. 45.

(*k*) 2 & 3 Will. 4, c. 45. (*n*) 30 & 31 Vict. c. 102, s. 5.

(*o*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7. Registration Act, 1885 (48 & 49 Vict. c. 15), s. 12.

(*p*) *Ante*, pp. 70—74.

(*q*) *Copeland v. Stephens* (1818), 1 B. & Ald. 593; *Tuck v. Fyson* (1829), 6 Bing. 321.

or official receiver immediately on the adjudication of the lessee as a bankrupt, subject to the right of disclaimer under section 55 of the Bankruptcy Act, 1883 (*r*).

It seems, therefore, that a bankrupt will now cease to be entitled to be registered or to vote in respect of any leasehold ownership qualification from the date of the order of adjudication, whether the trustee or official receiver has taken actual possession or elected to take the term, or not.

## B.—Occupation Qualifications.

### I.—FIFTY POUNDS RENTAL QUALIFICATION.

*A person entitled to be registered as a parliamentary elector in a county in respect of a fifty pounds rental qualification—*

- (A.) *Must on the fifteenth day of July (s) in the year in which such person is to be registered, be an occupier as tenant of some land or tenement for which he is bonâ fide liable to a yearly rent of not less than fifty pounds (t) ; and*
- (B.) *Must have occupied such land or tenement for the whole of the twelve months immediately preceding the said fifteenth day of July (u) ; and*
- (C.) *Must have been registered as an elector in respect of such occupation in the register of electors in force during the year one thousand eight hundred and eighty-four (x).*

*If two or more persons jointly are such occupiers as above mentioned, and the rent is such as to give fifty pounds or more for each occupier, each such occupier, if he was registered in respect of the said occupation in the year one thousand eight hundred and eighty-four, is entitled to be registered as an elector (y).*

The fifty pounds rental qualification was the starting-point of the occupation qualifications in counties.

With respect to the qualification of fifty pound rental voters,

(*r*) 46 & 47 Vict. ss. 20, 54, 55. See Robson on Bankruptcy, 7th ed. p. 469, and authorities there cited.

(*s*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7 ; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 12.

(*t*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 20.

(*u*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 26 ; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7 ; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 12.

(*v*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 10, 12, and Sched. 2, Part I.

(*y*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 73 ; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 10, 12, Sched. 2, Part I.



the first point to be observed is that this qualification is now abolished, saving the rights of persons registered in respect of such a qualification on December 6th, 1884 (z).

And so far as the qualification still exists, some observations are necessary as to—

1. NATURE OF OCCUPATION.
2. LIABILITY FOR RENT.
3. JOINT OCCUPIERS AT A 50*l.* RENTAL.

#### 1. NATURE OF OCCUPATION.

First, it is necessary that the person claiming to be registered in respect of such a qualification must occupy as tenant.

There must be a legal tenancy subsisting between the occupier and some lessor so as to make the occupier legally liable for rent.

In the case of *Burton v. Langham*, decided in 1848, Herbert Langham claimed to be registered in respect of the occupation by him of certain farms, being part of the property of Sir J. H. Langham, a lunatic so found. The custody and occupation of all the lunatic's estate had been granted to the claimant by letters patent on condition that he rendered accounts, etc., to the Lord Chancellor, and it appeared that after this grant certain tenants of the lunatic quitted their farms and Herbert Langham entered on the occupation of these farms to the extent of two hundred acres, with a house, received the produce to his own use and benefit, and in his annual accounts, passed before a master in Chancery, entered himself in the column of tenants, and in the column of rents inserted opposite his name the usual rent, being more than fifty pounds clear yearly for the land so occupied, and in the column of receipts entered that sum as received. It was held that he was *not* entitled to vote in respect of such occupation, as he could not make himself a tenant or render himself liable to distress, ejectment, or an action for rent (a).

The case of joint occupiers may be more conveniently discussed after the consideration of the nature of the liability of a sole occupier for rent as required by the Act.

#### 2. LIABILITY FOR RENT.

The liability for rent as required by the Act must be an entire liability for one yearly rent of not less than fifty pounds under a tenancy to the same landlord.

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(z) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 10, 12, and Sched. 2.

(a) *Burton v. Langham* (1848), 5 C. B. 92.

This was decided in 1844 in the case of *Gadsby v. Barrow*, which was as follows: James Barrow claimed to be entitled to vote for the southern division of Lancashire in respect of lands and tenements within the same county "occupied by him as tenant, and for which he was *bonâ fide* liable to a yearly rent of not less than fifty pounds," and it appeared that he occupied land and buildings for which he paid fifty-five pounds a year, under two different landlords, to one of whom he paid a rent of thirty-five pounds per annum, and to the other a rent of twenty pounds per annum; but that he did not occupy as tenant under one and the same landlord any lands or tenements for which he was *bonâ fide* liable to pay to the same landlord one entire yearly rent of not less than fifty pounds. It was held that the claimant was not entitled to vote, and MAULE, J., observed that this part of the section conferred a right of voting in respect of the liability to pay a certain rent; it was not the value of the land or the payment of the rent which was the criterion; where the franchise was given in respect of the value the case was different, and it might be made up of several items, but in this case the liability must be an entire liability under one tenancy for one rent (*b*).

The principle of entirety of rent, upon which this case was decided, would have applied, if carried out, to the not unusual case of a party holding two or more tenements by successive takings from the same landlord.

It was enacted, therefore, by section 73 of the Parliamentary Registration Act, 1843, after reciting this portion of section 20 of the Reform Act, 1832 (*c*), "that the lands and tenements in respect of the occupation of which, at a yearly rent of not less than fifty pounds, any person shall be so entitled to be registered, shall not be required to be the same lands and tenements, but may be different lands and tenements rented and occupied as aforesaid, in immediate succession by such person during the twelve calendar months next previous to the last day (but now the 15th, by section 12 of the Registration Act, 1885) (*d*) of July in such year (*e*)."

It seems that the principle in *Gadsby v. Barrow* would apply to the case of several tenements held by the same demise, but with separate renders (*f*).

(*b*) *Gadsby v. Barrow* (1844), 7 M. & G. 21.

(*c*) 2 & 3 Will. 4, c. 45.

(*d*) 48 & 49 Vict. c. 15.

(*e*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 73.

(*f*) See note on p. 28 of the Report in 7 M. & G.

3. JOINT OCCUPIERS AT A 50*l.* RENTAL.

There was nothing in the Reform Act of 1832 (*g*) to prevent all duly registered joint occupiers of lands or tenements, for which they were *bonâ fide* liable to a yearly rent of 50*l.* under one demise, from voting at county elections in respect of such occupation.

But by section 73 of the Parliamentary Registration Act, 1843, after reciting that part of section 20 of the Reform Act, 1832 (*h*), and section 26 of the same Act as to registration, it was enacted (amongst other things) “that where any such lands and tenements shall be jointly rented and occupied by more persons than one, each of such joint occupiers shall be entitled to be registered and to vote in respect of the lands and tenements so jointly rented and occupied, in case the yearly rent for which they shall be *bonâ fide* liable in respect of such lands and tenements shall be of an amount which, when divided by the number of such occupiers, shall give a *bonâ fide* rent of not less than fifty pounds for each and every such occupier, but not otherwise” (*i*).

But this enactment does not enable a sole occupier, at a rent of less than fifty pounds, to make up a qualification of the requisite value by the addition of other land jointly occupied at a rent of less than fifty pounds for each occupier. In such a case, there can be no qualification under either Act, as in *Smith v. Foreman*, in 1865, where one John Rolfe claimed to be entitled to vote for the eastern division of Kent under the following circumstances:—He had, during the qualifying period, occupied solely as tenant a house and land, for which he was *bonâ fide* liable to a yearly rent of 40*l.* He had also occupied during the qualifying period, as tenant jointly with his father under the same landlord, other lands, for which he and his father were *bonâ fide* jointly liable to a rent of 64*l.* per annum. The hiring of these latter lands was at a different and subsequent period from the hiring of the first-mentioned house and land, of which John Rolfe was sole tenant. The court held that John Rolfe was not entitled to vote either in respect of the liability to pay rent for the lands occupied by him solely or by him and his father jointly, and that, on the principle of *Gadsby v. Barrow*, he could not join together the liability to pay the sole rent of 40*l.* and the joint liability to pay

(*g*) 2 & 3 Will. 4, c. 45.

(*h*) 2 & 3 Will. 4, c. 45.

(*i*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 73.

the joint rent of 64*l.*, so as to make one qualification under either section of either Act (*k*).

## II.—TEN POUNDS OCCUPATION.

*A person entitled to be registered as a parliamentary elector in a county in respect of a ten pounds occupation qualification :—*

- (A) *Must, on the fifteenth day of July (l) in the year in which he is registered be, and during the whole twelve months immediately preceding that day, have been an occupier, as owner or tenant, of some land or tenement within the county, of the clear yearly value of not less than ten pounds (m); and*
- (B) *Such person, or some one else, must during those twelve months have been rated to all poor rates made in respect of such land or tenement; and*
- (C) *All sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the fifth day of January in the year in which such person is registered, must have been paid on or before the following twentieth of July (n).*

*If two or more persons jointly are such occupiers as above mentioned, and the clear yearly value of the land or tenement is such as to give ten pounds or more for each occupier, two of such occupiers are entitled to be registered as electors; but no more are so entitled unless they derived the property by descent, succession, marriage, marriage-settlement, or devise, or unless they are bonâ fide engaged as partners, carrying on any trade or business thereon, in any of which cases all may be registered, if the clear yearly value is sufficient to give ten pounds for each occupier (o).*

*If a person has occupied different lands or premises within the same county, of the requisite value, in immediate succession during the said twelve months, he is entitled, in respect of the occupation thereof,*

(*k*) *Smith v. Foreman* (1865), 18 C. B. (N.S.) 144.

(*l*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (1).

(*m*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 6; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 5, 11, 12.

(*n*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 6; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 5, 11, 12.

(*o*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 27; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 5, 11, 12.



*to be registered as an elector in the parish or township in which the last-occupied land or tenement is situate (p).*

This qualification was substituted by the Representation of the People Act, 1884 (*q*), for the existing twelve pounds occupation qualification in counties, which was created by the Representation of the People Act, 1867 (*r*), saving existing rights, except where the existing qualification would also qualify under the later Act, and making registration, in respect of the new qualification, subject to the like conditions as applied to registration in respect of the old qualification (*s*).

The practical result being the almost entire obliteration of the twelve pounds occupation qualification, it will be convenient to notice that qualification only with reference to the now existing ten pounds occupation qualification.

The object of the enactment of the ten pounds occupation qualification being to assimilate the occupation franchise in counties and boroughs, frequent reference will be made to the corresponding qualification in boroughs, as hereinafter described (*t*).

The ten pounds occupation qualification in counties may, like the similar qualification in a borough, be considered as compounded of:—

1. FOUR ELEMENTS OF QUALIFICATION (p. 105), (1) tenement ; (2) value ; (3) occupation ; and (4) estate ; and the person possessed of a qualification so compounded will be entitled to be registered, provided also, that
2. TWO CONDITIONS OF REGISTRATION (p. 110), have been fulfilled, viz., as to (1) rating and (2) payment of rates.  
Lastly, the subject of
3. JOINT OCCUPIERS (p. 110), will be considered.

#### 1. ELEMENTS OF QUALIFICATION.

**(1) Tenement.**—The first element is described in section 5 of the Representation of the People Act, 1884, as “any land or tenement (*u*).”

In the twelve pounds occupation qualification, the corresponding element was described in section 6 of the Representation of the

(*p*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 26 ; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 5, 11, 12.

(*q*) 48 & 49 Vict. c. 3.

(*r*) 30 & 31 Vict. c. 102.

(*s*) Representation of the People Act, 1884, (48 & 49 Vict. c. 3), ss. 5, 10, 11 and 12.

(*t*) *Post*, p. 135.

(*u*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 5.

People Act, 1867, as "lands or tenements," and the general meaning of the word "tenements" was restricted by the required kind of value and the conditions as to rating and payment of rates to such tenements as were rateable (*v*).

Rateable tenements include under the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, lands, houses, tithes impropriate, or appropriation of tithes, coal mines, and saleable underwoods, to which were added by the Rating Act, 1874 (*x*), first, land used for a plantation or wood, or for the growth of saleable underwoods and not subject to any rights of common; secondly, rights of fowling, of shooting, of taking or killing game or rabbits, and of fishing, when severed from the occupation of the land; and, thirdly, mines of every kind not mentioned in the Act of Elizabeth.

It seems doubtful whether there was any further restriction on the nature of the tenements which might be the subject of a twelve pounds qualification.

The same conditions as to rating and payment of rates being applicable to a ten pounds occupation qualification, it seems that the meaning of the word "tenement" in section 5 of the Representation of the People Act, 1884, is also restricted to such tenements as are, or would be but for the fact that they are Crown property, of a rateable character. (See *post*, p. 137.)

The expression "land or tenement," as used in section 5 of the Representation of the People Act, 1884, by section 11 of the same Act, includes any part of a house separately occupied for the purpose of any trade, business, or profession (*y*). It is not necessary that the land or tenement should have specific metes and bounds so long as the limits are known to the occupier (*z*).

It has not yet been decided in respect of a ten pounds occupation qualification whether several pieces of land or several tenements within the same county, but not, if taken separately, of the required value, and not, if occupied by the occupier as tenant, held under the same landlord or by the same original taking, may be joined together to make one entire qualification.

In section 5 of the Representation of the People Act, 1884, the words "any land or tenement" are in the singular, but in section 6 of the Representation of the People Act, 1867, the words "lands or tenements" were in the plural, and it was held

(*v*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 6.

(*x*) Rating Act, 1874 (37 & 38 Vict. c. 54), s. 1.

(*y*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 11.

(*z*) *Hall v. Metcalfe*, [1892] 1 Q. B. 208. See *post* p. 137.

in the case of *Huckle v. Piper*, in 1871, that several pieces of land occupied by the occupier as tenant and not held by him under the same landlord, but under several and distinct landlords and not under the same original taking, each piece of land being separately rated, and not, if taken separately, of the required value, might be joined together to make one entire twelve pounds occupation qualification (a).

The land or tenement which is the subject of a ten pounds occupation qualification must be situate within the county and not within the limits of any parliamentary borough within the county.

This restriction is imposed by section 6 of the Representation of the People Act, 1884 (b).

There was no such absolute restriction in the case of the twelve pounds occupation qualification.

But there was a restriction of a similar kind, though not so severe, that is to say, that if the lands or tenements were situate within a borough and consisted of a building or a building and land occupied therewith within the meaning of section 27 of the Reform Act, 1832 (c) the occupier, whether as owner, or tenant, was not entitled to be registered as a voter for the county in respect of them.

This was in consequence of the application of the restrictions contained in sections 24 and 25 of the Reform Act, 1832, to the franchises created by the Representation of the People Act, 1867, by the construction put on sections 56 and 59 of the later Act in *Chorlton v. Johnson* ; *Ree's Case* (d).

It was decided in the case of *Sanders v. Searson*, in 1880, that lands situate within a borough occupied at the same time and under the same landlord as a building within the same borough, but not locally contiguous to the building, nor required for the purpose of supplementing the value of the building in order to make the building of sufficient value to confer the borough franchise, were not "occupied therewith," nor was the building "occupied together with" such lands, so as to prevent the occupier from being entitled to be registered as a voter for the county in respect of such lands (e).

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(a) *Huckle v. Piper* (1871), L. R. 7 C. P. 193.

(b) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 6.

(c) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 27.

(d) *Chorlton v. Johnson* ; *Ree's Case*, (1868) L. R. 4 C. P. 400.

(e) *Sanders v. Searson* (1880), 50 L. J. C. P. 117.

The land or tenement need not be the same land or tenement during the whole of the required period of occupation, but if a person has occupied different lands or tenements within the same county of the requisite value in immediate succession during such period he will be entitled in respect of the occupation thereof to be registered as a voter in the parish or township in which the last occupied land or tenement is situate (*f*).

This was the case in respect of a twelve pounds occupation qualification by virtue of section 26 of the Representation of the People Act, 1867, which is not in any way repealed by the Representation of the People Act, 1884, but applies to a ten pounds occupation qualification, if not as a "like condition" under section 5 of the latter Act, at least by virtue of section 11 and the recital in section 12 that the franchises conferred by that Act are in substitution for the franchises conferred by the repealed enactments, of which section 6 of the earlier Act is expressly mentioned in the second part of the second schedule.

(2) **Value.**—The land or tenement which is to be the subject of a ten pounds occupation qualification must be of a clear yearly value of ten pounds (*g*).

In this respect there is a radical difference between the ten pounds occupation qualification and the twelve pounds occupation qualification.

The lands or tenements in order to be the subject of a twelve pounds occupation qualification were required by section 6 of the Representation of the People Act, 1867, to be of a rateable value of twelve pounds or upwards (*h*).

It was decided in the case of *Cooke v. Butler*, in 1872, that the words "rateable value" in this section meant the real rateable value, and not merely the value at which it might appear by the rate book that the lands and tenements in question were in fact rated (*i*).

The method of determining the clear yearly value of the land or tenement in the case of a ten pounds occupation qualification will be found fully discussed in relation to the ten pounds occupation in a borough (*k*), and all that is there said is equally applicable in a county case.

(*f*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 26. Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 5, 11, 12.

(*g*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 5.

(*h*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 6.

(*i*) *Cooke v. Butler* (1872), L. R. 8 C. P. 256.

(*k*) See *post*, p. 151.



(3) **Occupation.**—The required period of occupation is for the whole of the twelve calendar months immediately preceding the fifteenth day of July in the year in which the occupier is to be registered, and on that day.

This period is fixed by section 6 of the Representation of the People Act, 1867, as altered by the application of section 7 of the Parliamentary and Municipal Registration Act, 1878 (*l*), in respect of a twelve pounds occupation qualification, and applies to the ten pounds occupation qualification if not as a “like condition” under section 5, at least under sections 11 and 12 of the Representation of the People Act, 1884 (*m*).

The element of occupation is hereinafter fully discussed with reference to the ten pounds occupation qualification in a borough (*n*), and all that is there said, except as to the required period of occupation, applies equally to the ten pounds occupation qualification in a county.

(4) **Estate.**—The occupier must occupy as owner or tenant. The words “as owner or tenant” do not occur in section 5 of the Representation of the People Act, 1884. But having regard to the fact that they do occur in section 6 of the Representation of the People Act, 1867, with respect to a twelve pounds occupation qualification, and having regard to the common law meaning of the term “occupy” (*o*) which is used in section 5 of the Representation of the People Act, 1884, and to the wording of that section and of sections 11 and 12 of the same Act, and to the use of the words “as owner or tenant” in the definition of a ten pounds occupation qualification in the precept of the clerk of the peace to the overseers (*p*), there seems no doubt that it is an essential part of a ten pounds occupation qualification that the occupier should occupy either as tenant or owner (*q*):

The meaning of these words and the element of estate which they import is hereinafter fully discussed in relation to a ten pounds occupation qualification in a borough (*r*), and all that is there said is equally applicable to a ten pounds occupation qualification in a county.

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(*l*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102). Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7. Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (1).

(*m*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3).

(*n*) *Post*, p. 152.

(*o*) See *post*, p. 154.

(*p*) Registration Order, 1895, schedule 2, precept, part 1, paragraph 7, *post*.

(*q*) But see per WRIGHT, J. in *Hall v. Micallef*, [1892] 1 Q. B. 208 at p. 213.

(*r*) *Post*, pp. 153 *et seq.*

## 2. CONDITIONS OF REGISTRATION.

The conditions as to rating and payment of rates (*s*), upon fulfilment of which a person possessed of a qualification compounded of the elements above described will be entitled to be registered in respect thereof, were enacted in respect of a twelve pounds occupation qualification by section 6 of the Representation of the People Act, 1867, and are applicable to a ten pounds occupation qualification under sections 5, 11 and 12 of the Representation of the People Act, 1884.

What is a sufficient rating, to what rates there must be a rating, what is a sufficient payment, and what rates must be paid (*t*) in order to entitle a person to be registered, is hereinafter fully discussed in relation to a ten pounds occupation qualification in a borough (*u*), and what is there said applies to a ten pounds occupation qualification in a county so far as the general result is concerned. It is, therefore, unnecessary to state it here, but of course in applying those statements due regard must be had to the date of the introduction of the twelve pounds occupation qualification.

## 3. JOINT OCCUPIERS.

The case of joint occupiers was provided for in respect of a twelve pounds occupation qualification by section 27 of the Representation of the People Act, 1867 (*x*).

That section has never been in any way repealed, and, with the substitution of the words "clear yearly value" for the words "aggregate rateable value," is applicable to a ten pounds occupation qualification by virtue of sections 5, 11 and 12 of the Representation of the People Act, 1884.

The section provides that "in a county where premises are in the joint occupation of several persons as owners or tenants and the *aggregate rateable value* (*y*) of such premises is such as would, if divided amongst the several occupiers, so far as the value is concerned, confer on each of them a vote, then each of such joint occupiers shall, if otherwise qualified, and subject to the conditions of this Act, be entitled to be registered as a voter, and when

(*s*) N.B. — Residence is not a condition of a ten pounds occupation qualification in a county.

(*t*) N.B. — Payment of assessed taxes is no part of a ten pounds occupation qualification in a county.

(*u*) *Post*, p. 168, *et seq.*

(*x*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 27.

(*y*) Substitute "clear yearly value."

registered to vote at an election for the county: Provided always that not more than two persons, being such joint occupiers, shall be entitled to be registered in respect of such premises unless they shall have derived the same by descent, succession, marriage, marriage-settlement, or devise, or unless they shall be *bonâ fide* engaged as partners carrying on trade or business thereon" (z).

But there is no enactment which makes provision, in the case of more than two joint occupiers not deriving the premises by descent, succession, marriage, marriage-settlement, or devise, and not being *bonâ fide* engaged as partners carrying on trade or business there, as to which two of such persons shall be registered in preference to the other or others of them.

### III.—HOUSEHOLD AND LODGER QUALIFICATIONS.

The household and lodger franchises as they existed in boroughs were extended to counties by the Representation of the People Act, 1884 (a). The material parts of that Act, so far as it concerns England, are as follows:—

*"A uniform household franchise and a uniform lodger franchise at elections shall be established in all counties and boroughs, and every man possessed of a household qualification or a lodger qualification shall, if the qualifying premises be situate in a county, be entitled to be registered, and when registered to vote at an election for such county" (b).*

*The expression "household qualification" means the qualification enacted by section 3 of the Representation of the People Act, 1867 (c), and the enactments amending or affecting the same, and the said section and enactments, so far as they are consistent with this Act, extend to counties (d).*

*The expression "a lodger qualification" means the qualification enacted by section 4 of the Representation of the People Act, 1867 (e), and the enactments amending or affecting the same, and the said section of the Act of 1867, and the enactments amending or affecting the same, shall, so far as they are consistent with this Act, extend to counties (f).*

(z) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 27

(a) 48 & 49 Vict. c. 3.

(b) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 2.

(c) 30 & 31 Vict. c. 102.

(d) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 7 (1).

(e) 30 & 31 Vict. c. 102.

(f) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 7 (3).

Therefore, all that is hereinafter said concerning the household and lodger qualifications of voters in cities and boroughs (*g*) is to be taken to be applicable *mutatis mutandis* to the household and lodger qualifications of voters at the elections of knights of the shire; observing, however, with reference to the right to be registered as a voter and to vote at county elections in respect of a household or lodger qualification, that it is expressly enacted by section 6 of the Representation of the People Act, 1884, that “*a man shall not by virtue of this Act be entitled to be registered as a voter or to vote at any election for a county in respect of the occupation of any dwelling-house, lodgings, land or tenement, situate within a borough*” (*h*).

## CHAPTER II.

### VOTERS IN CITIES AND BOROUGHES AND UNIVERSITIES.

#### A.—Voters in Cities and Boroughs.

The qualifications of parliamentary voters in cities and boroughs may be considered as divisible into the four following kinds (*i*) :—

I.—Rights reserved by sections 31 to 35 of the Reform Act, 1832 (*k*) (p. 112).

II.—Ten pounds occupation qualification (p. 135).

III.—Household qualification (p. 189).

IV.—Lodger qualification (p. 226).

The above order, although not that followed in the first paragraph of the precept of the town clerk to the overseers prescribed by the Registration Order, 1895 (*l*), is convenient for the present purpose.

#### I.—RESERVED RIGHTS.

This subject will be considered as to :—

1. EARLY HISTORY (p. 113).

2. RESERVATIONS BY REFORM ACT, 1832, (p. 114), either absolute or personal.

3. BURGAGES AND FREEHOLDS (p. 114).

(*g*) *Post*, pp. 189—237.

(*h*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 6.

(*i*) See Registration Act, 1885 (48 & 49 Vict. c. 15), Sched. 3, Part 1.

(*k*) 2 & 3 Will. 4. c. 45.

(*l*) Registration Order, 1895, sched. 3, *post*.



4. PERSONAL PRIVILEGES OF RESIDENTS AND FREEMEN (p.121).
5. RESIDENCY (p. 121).
6. CORPORATORS (p. 126).
7. GENERAL CONDITIONS AND RESERVATIONS (p. 130).
8. RESIDENCE (p. 130).

### 1. EARLY HISTORY.

The right of voting for the representatives of cities and boroughs was not anciently, as in counties, regulated by one fixed rule uniformly pervading the whole kingdom; but almost every city and borough had a right of voting in some respect peculiar to itself, and the general rule by which the law of Parliament regulated the right where there was no Act of Parliament, charter, or last determination of the House of Commons affecting the particular place, was by the ancient local usage (*m*).

There were, however, some places to which this rule could not apply, as in newly created boroughs, and in ancient boroughs which had been restored to the privilege of returning members after so long an intermission that it would have been impossible to prove what had been the former usage (*n*).

In these cases it was absolutely necessary to inquire on what class of persons the law originally cast the right of voting, and there was a difference of opinion upon the subject. The better opinion seems to be that in such cases, "all men inhabitants, householders, residents within the borough, ought to have voices in the elections" (*o*).

The question, however, is not of much practical importance at the present time, and it is sufficient for practical purposes to say that, previously to the introduction of any single uniform franchise

(*m*) At common law, in order to be good, the usage ought to be alleged to have continued from time whereof the memory of man runneth not to the contrary, that is to say, from the reign of Richard I., including the first day of it, for time before that is called time out of memory, upon an equitable construction of Stat. West. 2nd, which so limits it for a writ of right. Com. Dig. Prescription (E. 1). The first day of the reign of Richard I. was Sept. 3rd, 1189.

(*n*) If usage within the time of memory could not be proved, the franchise was lost, although the town proved to have been incorporated before the time of legal memory. See *per* VAVASOUR, J., in Y. B. 14 H. 7, fo. 1; 2 Ro. Ab. 258 l. 52. Com. Dig. Prescription (E. 2).

(*o*) *Cirencester* (1623), Glanv. E. C. 107. See Heywood, Bor. El. pp. 175--180.

into cities and boroughs, the voters could generally be divided into three classes, according to the nature of their right of voting, although it does not follow that all were to be found in any one city or borough.

These classes included those who claimed to vote in right, first, of tenure in burgage, this right being in many cases extended to freeholders generally within the borough, although they might not hold in burgage but only in common socage; secondly, of residency; and, thirdly, as members of a corporate body (*p*).

## 2. RESERVATIONS BY REFORM ACT, 1832.

The Reform Act, 1832 (*q*), dealt with these ancient rights in two ways; some were reserved absolutely, others only to a limited extent.

In all cases the Reform Act, 1832, required registration, and residence within the city or borough, or seven miles thereof (*r*), for six calendar months previous to the last (now by section 7 of the Parliamentary and Municipal Registration Act, 1878 (*s*), the fifteenth) day of July.

It should be observed that it is specially provided by section 16 of the Municipal Corporations Act, 1883 (*t*), that nothing in that Act shall affect the right enjoyed by any person at the passing of that Act (June 29th, 1883) to vote for any member or members to serve in Parliament.

A convenient method of discussing reserved rights will be to consider them in the probable historical order of their origin, with full details in so far as such rights are reserved absolutely, and noting the differences where the reservation is limited, and concluding with the discussion of the general conditions imposed by the Reform Act, 1832.

## 3. BURGAGES AND FREEHOLDS.

The most ancient right was probably the right annexed to a burgage tenement (*u*).

Out of this right there grew up the right of freeholders generally within certain cities and boroughs to vote whether their tenement was held in burgage or not.

(1) **Absolute Reservations.**—The right of voting in respect of burgage tenements and freeholds is, by the Reform Act, 1832, reserved absolutely, subject to conditions as to registration and

(*p*) See Heywood, *Bor. El.* pref. p. iv.

(*q*) 2 & 3 Will. 4, c. 45.

(*r*) Afterwards altered as regards the residence of freemen and liverymen of the City of London to twenty-five miles by 33 & 31 Vict. c. 102, s. 46. See *post*, p. 131.

(*s*) 41 & 42 Vict. c. 26.

(*t*) 46 & 47 Vict. c. 18.

(*u*) Heyw. *Bor. El.* 171.

residence, in cities and towns being counties of themselves (*x*). And where the boundaries of any such city or town are altered by the Boundary Act, 1832, freeholds or burgages situate within the new limits confer the same right as if situate within the ancient limits (*x*).

**(2) Personal Reservations.**—In other cities and boroughs, those persons who possessed the right of voting in respect of burgage tenements or freeholds at the date of the passing of the Act, viz., June 7th, 1832, are, by the proviso to section 33, permitted to retain such right so long as they are qualified as electors according to the usages and customs of such city or borough, or any law in force at the date of the passing of the Act, and subject also to the general conditions as to registration and residence (*y*).

But since the youngest of such persons must be at the present day well over the generally allotted span of three-score years and ten, the importance of these personally reserved rights must be daily diminishing (*z*).

It may, however, be observed that it is necessary, in cases of such rights, that the qualification should be the same as that possessed at the date of the passing of the Act (*a*).

It is made a special condition of all rights merely personally reserved, that every such person shall for ever cease to enjoy any such right of voting if his name shall have been omitted from the register in respect of that particular right for two successive years, except in consequence of his having received parochial relief, or of his absence on the naval or military service of the Crown (*b*).

**(3) Places as affected by Reservation of Right to Vote in respect of Freehold and Burgage Tenements.**—Of cities and towns which are dignified with the privilege of separate counties of themselves, only the cities of Bristol, Exeter, and Norwich, and the borough of Nottingham, still return members to serve in Parliament; the others (*c*) having been merged in their counties at large by section 17 and schedule G. of the Reform Act, 1832 (*d*), and section 2 and schedule 1, part 2, of the Redistribution of Seats Act, 1885 (*e*).

(*x*) 2 & 3 Will. 4, c. 45, s. 31.

(*y*) See *post*, p. 130.

(*z*) Accordingly 2 & 3 Will. 4, c. 45, s. 33, is wholly repealed by the Statute Law Revision Act, 1890 (53 & 54 Vict. c. 35).

(*a*) See more particularly under the head of Rights in respect of Residency, *post*, pp. 121—125.

(*b*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), proviso to s. 33, superseded by Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 78, and repealed by Statute Law Revision Act, 1874 (37 & 38 Vict. c. 35).

(*c*) See a list, Heyw. Bor. El. 19.

(*d*) 2 & 3 Will. 4, c. 45.

(*e*) 48 & 49 Vict. c. 23.

It was said in the *Downton Case* (1775) (*f*), that there were then about twenty-nine burgage tenure boroughs in England. Serjeant Heywood, in 1812, gives a list of twenty-eight (*g*). This list does not contain the name of any city or borough being a county of itself and still returning members to Parliament. It seems, therefore, that the right to vote simply as a burgage tenant now remains only as a personally reserved right. Out of the whole list of burgage tenure boroughs given by Serjeant Heywood, fifteen cities and boroughs were disfranchised by the Reform Act, 1832 (*h*), and twelve others by the Redistribution of Seats Act, 1885 (*i*).

Serjeant Heywood also gives a list (*k*) of twenty-one cities and boroughs in which freeholds generally, whether held in burgage or not, gave the right of voting. This list includes three out of the four cities and boroughs, being counties of themselves, which still return members to serve in Parliament, viz., Bristol (*l*), Norwich (*m*), and Nottingham (*n*). The fourth, viz., Exeter, probably also should be included (*o*). The result is that in these three cities (Bristol, Norwich, and Exeter), and in the borough of Nottingham, being counties of themselves, and returning members as such, special provisions are inserted in the precept of the clerk of the peace to the overseers (*p*) for the purposes of the registration of freehold and burgage tenant right voters. Of the other boroughs included in the list given by Serjeant Heywood, nine were disfranchised by section 2 and schedule A. of the Reform Act, 1832 (*q*); one, viz., Reigate, was disfranchised for corruption by the Representation of the People Act, 1867 (*r*); and eight were disfranchised by section 2 and schedule 1, part 1 of the Redistribution of Seats Act, 1885 (*s*).

**(4) The Nature of the Right to Vote.**—Tenure in burgage is, as Littleton says, “but a tenure in socage” (*t*), and the usual incidents of socage tenure attached to it, such as rent, fealty, suit of court, etc.; and yet for the greater part, as Littleton says,

(*f*) 1 Doug. E. C. 224.

(*g*) Heyw. Bor. El. pp. 273—5.

(*h*) 2 & 3 Will. 4, c. 45, s. 2, schedule A.

(*i*) 48 & 49 Vict. c. 23, s. 2, schedule I., part 1.

(*k*) Heyw. Bor. El. 360—1.

(*l*) (1713) 17 Comm. Journ. 482, and (1775) 1 Doug. E. C. 260.

(*m*) (1701) 13 Comm. Journ. 790.

(*n*) (1701) 13 Comm. Journ. 611.

(*o*) See *Ford v. Harington* (1870), L. R. 5 C. P. 282; *Beal v. Ford* (1877), 2 Hopw. & Colt. 374, note (*a*); and *Ford v. Drew* (1879), 5 C. P. D. 59.

(*p*) Registration Order, 1895, schedule 3, instructions, par. 5.

(*q*) 2 & 3 Will. 4, c. 45.

(*s*) 48 & 49 Vict. c. 23.

(*r*) 30 & 31 Vict. c. 102, s. 12.

(*t*) Litt. s. 162.



there were divers customs and usages attendant upon estates held in burgage, which distinguished them from tenements held in common socage, as for instance with respect to the widow's dower, the descent of the inheritance, and customs to devise (*u*).

But the right of voting was annexed to the tenement only in such boroughs as enjoyed by charter, by prescription, by writ of summons, or by Act of Parliament, the privilege of returning representatives to Parliament, and then only according to the limits of the charter, prescription, writ, or statute (*x*).

Where, however, the right of voting was annexed to a tenement, it was inseparable therefrom, as in the case of the similar right annexed to the freehold in counties (*y*).

By the law of Parliament, the tenement to which the right of voting was annexed before the time of memory must be whole and undivided in the hands of the tenant claiming to vote in respect thereof, and where it had happened that several burgages had come into one hand, the owner could only vote once for them all, although the distinct right annexed to each might have revived again on separation (*z*).

The interest which the burgage tenant must have in the premises for which he votes is regulated by the prevailing usage in such borough. But in general it is extended to those who have a freehold interest, that is to say, whose interest is reckoned in indentment of law equal to the life of a man, at least.

Such being the general rule, and the tenements in ancient boroughs being originally, as a rule, all held by burgage tenure, the only inquiry into the qualification of voters would have been whether their interest was freehold or not; hence the name of "freeholder" would become the designation of the voter, and would be adopted in the resolutions of committees and of the House of Commons. This is the probable origin of the right of freeholders, other than burgage tenants, to vote in elections for cities and boroughs (*a*).

As already stated, freeholds generally, without regard to whether the tenure thereof is in burgage or not, give the right to vote in three at least of the cities and towns being counties of themselves, and still returning members to serve in Parliament, viz., in Bristol, Norwich, and Nottingham. The same is probably the case in the fourth, viz., in Exeter.

(*u*) See Litt. s. 165 *et seq.*

(*x*) Heyw. Bor. El. 267.

(*y*) See *per* Lord Holt, C.J., in *Ashby v. White*, 2 Ld. Raym. p. 950.

(*z*) Heyw. Bor. El. pp. 275–282, 325 *et seq.*

(*a*) Heyw. Bor. El. 368.

So far, however, as the right of voting in respect of burgages is merely personally reserved, it appears that burgage tenants, holding by copy of court roll, have been admitted to vote in the boroughs of Cricklade (*b*) and Westbury (*c*). But Serjeant Heywood says it is very difficult to support on principle the claims of copyholders to the enjoyment of the franchise by virtue of their tenure (*d*). And the boroughs of Cricklade and Westbury are now disfranchised by the Redistribution of Seats Act, 1885.

In Westbury, in the cases above cited, even tenants for terms of years of ancient borough houses were admitted to vote.

In the cases of Weobly (*e*), Bramber (*f*), and Great Bedwin (*g*), the inhabitants of burgage tenements were either admitted or decided to have the same privilege; but all these three boroughs were disfranchised by the Reform Act, 1832. In many cases the right has been claimed to be in burgage tenants generally, and their respective interests not specified in the Journals (*h*).

**(5) Equitable Interests in Burgages and Freeholds.**—By the common law, the person entitled to the legal estate in the burgage tenement, if we may be allowed to argue from the case of other freeholds, would be entitled to vote; whether he held as a trustee or in his own right could not have been the subject of inquiry, nor could his seisin or possession give the privilege to another as his *cestui que* trust. Lord Somers' Act (*i*) applied to borough as well as to county voters (*k*). Section 23 of the Reform Act, 1832 (*l*), applied in terms to counties only, but was applied to boroughs as amended by section 74 of the Parliamentary Registration Act, 1843 (*m*). The effect of these statutes, in giving the right to vote to a *cestui que* trust being in actual or constructive possession and to a mortgagor in possession, has already been discussed at length in respect of county voters, and those remarks are equally applicable to borough voters (*n*).

**(6) Value of Burgages and Freeholds.**—There was no general rule that burgage tenements, in order to confer a vote, should be of any particular value, but in many cases (*o*) there were last decisions of the House of Commons establishing that the right to

(*b*) (1689) 10 Comm. Journ. 72; (1776) 4 Doug. E. C. 66.

(*c*) (1702) 14 Comm. Journ. 62; (1715) 18 Comm. Journ. 149, 154.

(*d*) Heyw. Bor. El. 284.

(*f*) (1703) 14 Comm. Journ. 286.

(*e*) (1736) 22 Comm. Journ. 769.

(*g*) (1707) 15 Comm. Journ. 480.

(*h*) Heyw. Bor. El. 297 *et seq.*

(*i*) 7 & 8 Will. 3, c. 25, s. 7; see *ante*, pp.

(*k*) Heyw. Bor. El. 309.

(*m*) 6 & 7 Vict. c. 18.

(*l*) 2 & 3 Will. 4, c. 45.

(*n*) See *ante*, pp. 42—51.

(*o*) See Heyw. Bor. El. 277.

vote was in the burgage tenants paying a certain ancient annual burgage rent, varying in amount according to the custom of the borough (*p*).

Where the qualification is simply freehold, of the cities and towns being counties of themselves and still returning members to serve in Parliament, in Nottingham (*q*) the value by the common law was required to be forty shillings a year, and in Bristol, Exeter, and Norwich, the effect of the Parliamentary Elections (Fraudulent Conveyances) Act, 1739, was to make it necessary that the yearly value of the tenement should be also forty shillings (*r*).

By the first proviso to section 31 of the Reform Act, 1832 (*s*), and section 18 of the same Act, a freehold for life or lives in any city or town, being a county of itself, must, in order to confer the right to vote, be of the value of not less than ten (now reduced, by section 5 of the Representation of the People Act, 1867, to five) (*t*) pounds over and above all rents and charges payable out of or in respect of the same, except the voter be in the actual and *bonâ fide* occupation of such lands or tenements, or except the same shall have come to such person by marriage, marriage-settlement, devise, or promotion to any benefice or any office (*v*).

These exceptions being the same as those contained in section 18 of the Reform Act, with respect to the occupation of small freeholds in counties which have already been considered, do not require further discussion, but the observations made as to freeholds in counties will apply equally to boroughs (*x*).

**(7) Fraud, Occasionality, and Possession for Twelve Calendar Months.**—It was in respect of fraudulent conveyances of burgages in the borough of Haslemere that the subject of fraudulent and occasional conveyances for the purpose of multiplying votes first came before a court of law in the case of *Onslow v. Rapley*, above cited (*y*); but after the passing of the Splitting Act (*z*) it was held that burgages are not within that statute (*a*), because of their indivisible nature. Consequently conveyances for multiplying votes in burgage tenure boroughs stood or fell by the common law (*b*). As regards freeholds, the provisions made against fraudulent and occasional votes in counties applied in

(*p*) See also Heyw. Bor. El. 291.

(*q*) (1701) 13 Comm. Journ. 611.

(*r*) 13 Geo. 2, c. 20; Heyw. Bor. El. 391-393, and see as to Bristol, 1 Dougl. E. C. 260.

(*s*) 2 & 3 Will. 4, c. 45.

(*t*) 30 & 31 Vict. c. 102.

(*v*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), ss. 18, 31; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 5.

(*x*) See *ante*, p. 72.

(*a*) *Downton* (1775), 1 Dougl. E. C. 209.

(*y*) *Ante*, p. 66.

(*b*) Heyw. Bor. El. 331.

(*z*) 7 & 8 Will. 3, c. 25.

general to boroughs also. The Elections (Fraudulent Conveyances) Act, 1711 (*c*), was extended to cities and towns being counties of themselves by the Parliamentary Elections (Fraudulent Conveyances) Act, 1739 (*d*), and the provisions of the Parliamentary Elections Act, 1744, ss. 1 and 5 (*e*), in respect of counties were copied as to boroughs by the Parliamentary Elections Act, 1745 (19 Geo. 2, c. 28), s. 4.

In cities and towns being counties of themselves, electors voting in right of freeholds of the yearly value of forty shillings were required to have been in possession for twelve months under the Parliamentary Elections Act, 1745, in the same way as electors for counties under the Parliamentary Elections Act, 1744. But in other cities and boroughs with respect to freeholders no limitation of time was imposed.

By section 31 of the Reform Act, 1832, every freeholder and burgage tenant is required to have been in actual possession or receipt of the rents and profits of the burgage tenement or freehold for his own use for twelve calendar months next previous to the last (now altered by section 7 of the Parliamentary and Municipal Registration Act, 1878 (*f*), to the fifteenth) day of July, except where the same shall have come to him at any time within such twelve months by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church or to any office (*g*).

These exceptions, being exactly the same as the exceptions in the section requiring six months' possession of freeholds in counties which have already been considered, do not require further discussion; but the observations made in respect thereof as to possession of freeholds in counties will apply equally to boroughs (*h*).

**(8) Superadded Qualifications.**—It must not be supposed that where the right of voting is incident to burgage tenements or freeholds there may not be some further requisite collateral qualification, such as payment of scot and lot, presentment by a jury, etc. These are called "superadded qualifications," and are expressly reserved by the terms of section 31 of the Reform Act, 1832 (*g*). No instances of such superadded qualifications occur in any city or town being a county of itself, and still returning members to serve in Parliament. It seems, therefore, they can

(*c*) 10 Anne, c. 23; Chap. 31 in the Statutes Revised. *Ante*, p. 66.

(*d*) 13 Geo. 2, c. 20.

(*e*) 18 Geo. 2, c. 18, *ante*, p. 73.

(*f*) 41 & 42 Vict. c. 26.

(*g*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 31.

(*h*) See *ante*, pp. 73, 74.



only occur where the right of voting in respect of burgages or freehold is personally reserved (*i*).

#### 4. PERSONAL PRIVILEGE OF RESIDENTS AND FREEMEN.

The right of residents and freemen to vote was probably of later origin than the right to vote in respect of burgage tenure. One of the reasons which led to the establishment of the rights of residents and freemen was the introduction of guilds merchant into boroughs. These were associations of the merchant inhabitants of the borough for mutual protection and security, to whom the Crown granted privileges of exemption from tolls and other burdensome services and payments in the nature of those privileges which were annexed by law to burgage tenements; but by the royal grant the privilege was created as a personal privilege vested in the members of each fraternity. The members of most of these guilds having a right to admit as many strangers as they thought fit to a participation in their privileges, in process of time the distinction between burgage tenants and other residents was nearly lost among themselves, and persons with whom they traded at a distance knew all indiscriminately only as inhabitants within the district or freemen of the guild. Then all being admitted to the same privileges, the right of voting, which was rather regarded as a burden because it involved contribution to the wages of the members of Parliament for the borough, was probably part of the price or terms of admission to the guild, and there was no one to object to this arrangement.

Afterwards charters in the modern form were granted to particular persons, and sometimes to all the inhabitants of a district in general, creating them a body politic, giving them perpetual succession, and vesting in them various privileges and powers. But the right of voting was not expressly granted by charter until the fifteenth century. Willis (*j*) mentions the charter of Wenlock, granted in 1478, in the reign of Edward IV., as the earliest instance he had met with (*k*).

#### 5. RESIDENCY.

The right to vote in respect of residency is of all the ancient rights the least important at the present day, because it must be all but entirely swallowed up by the modern household and lodger franchises.

This kind of right was not reserved absolutely by the Reform

(*i*) For instances of such superadded qualifications, see Heyw. Bor. El. as to burgage tenements, pp. 354-56; and as to freeholds, p. 411.

(*j*) 1 Not. Parl.

(*k*) See Heyw. Bor. El. pp. 17-19, 171-175.

Act, 1832 (*l*), in any city or borough, or to any particular class of voters; but some of its better elements were recast into what is now commonly called the old borough occupation franchise under section 27 of the Act, and the ancient right was reserved personally only by section 33 in the same manner as the right to vote in respect of burgages and freeholds in cities and boroughs not being counties of themselves.

The classes of voters included under this head, that is, those whose right to vote was in respect of residency, were either

- (1) Inhabitants generally, or
- (2) Inhabitant householders, or
- (3) Inhabitants paying scot and bearing lot, or
- (4) Those who were called potwallers.

Finally will be considered

- (5) The extent to which these rights in respect of residency were reserved by the Reform Act, 1832.

(1) **Inhabitants.**—Upon the question who are inhabitants, Lord ELDON said (*m*) that “no word is capable of a larger or more limited interpretation.” “The construction, however, is always to be made with reference to the nature of the subject, and the right of election may by usage be confined to a very small number.”

“The word inhabitant may mean either occupier or resiant” (*n*). It is used in the former sense where the law imposes a pecuniary obligation, *e.g.*, the repair of bridges (*o*). “It was decided in Lord Coke’s time that a man living in Cornwall may to many purposes be an inhabitant of London, that is, by having property liable to the repair of bridges” (*p*). “He is an inhabitant both where his person dwelleth, and where he hath lands or tenements in his own possession. *Nota, habitatio dicitur ab habendo, quia qui propriis manibus et sumptibus possidet, et habet, ibi habitare dicitur*” (*q*).

But the term is restricted as a rule to the meaning of “resiant” where the law imposes a personal obligation, as to serve the office of constable (*r*), or of rate collector (*s*).

The proper meaning of the word “inhabitant,” when used in connection with the parliamentary franchise, does not seem to have been strictly defined at any time. So long as the electors contributed to the wages of the members, and the franchise was

(*l*) 2 & 3 Will. 4, c. 45.

(*m*) 10 Ves. 339.

(*n*) *Per* BAYLEY, J., 9 B. & C. at p. 69.

(*o*) 2 Co. Inst. 703.

(*s*) *Donne v. Martyn* (1828), 8 B. & C. 62.

(*p*) Lord ELDON. 10 Ves. 339.

(*q*) 2 Co. Inst. 702.

(*r*) *R. v. Adlard* (1825), 4 B. & C. 772.

regarded as a burthen rather than a privilege, it was to be expected that the word should receive the more extended construction, as in the cases cited where the law imposes a pecuniary obligation. But then, again, actual residence being the normal condition of most voters in cities and boroughs, either from poverty, the pursuit of trade, or the compulsion of their lords, the point was not very likely to arise.

With reference to the right to vote at municipal elections under the Municipal Corporations Act (*t*) as an "inhabitant householder," Lord BLACKBURN, then a Justice of the Queen's Bench, said, in *Wescomb's case* : "There is no strict or definite rule for ascertaining what is inhabitance or residence. The words have nearly all the same meaning" (*u*). And again in *Dipstale's case*, immediately following : "A person may inhabit a place without sleeping there, or he may sleep there without inhabiting it. The fact that a person sleeps in a place is generally a very important ingredient in deciding whether he inhabits it, but it is not conclusive." As, for instance, in a case where a man's bed stood so that he lodged in two parishes at once. The question was where his settlement should be. Mr. Justice FORTESCUE said where his head lay, as being the more noble part (*x*). It is not necessary that the residence of a person in a particular place should be continuous in order to make him an inhabitant. It is sufficient if he keep the house in his own hands, and may return at his pleasure (*y*). As, for instance, militiamen who were quartered in Colchester, but had their own dwelling-houses or houses in Norwich, in which they left their families dwelling, and to which they returned from time to time when they obtained leave of absence, were held to be inhabitants of Norwich so as to have a right to vote for corporate offices (*z*).

**(2) Inhabitant Householders.**—"The meaning of the term 'householders' in like manner is to be found not so much in strict etymological propriety of language, nor even in popular use, as in the subject or occasion on which it is used, and the object

(*t*) 5 & 6 Will. 4, c. 76, s. 9.

(*u*) *Reg. v. The Mayor of Exeter (Wescomb's Case)* (1868), L. R. 4 Q. B. 110.

(*x*) *Law Magazine and Review*, vol. xi. p. 275.

(*y*) *Winchelsey* (1623), *Glanv. E. C.* 18.

(*z*) *Reg v. Mitchell* (1809), 10 East, 511. N.B.—Militiamen being under a legal obligation not to return without leave during their training, could not have been said for the purposes of the household franchise to inhabit by means of their families. See *Ford v. Barnes* (1885), 16 Q. B. D. 254; *Spittal v. Brook* (1887), 18 Q. B. D. 426; but an exception to this in case of absence on duty not exceeding four months at any one time during the qualifying period, is established by the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11).

that is intended to be attained." "The object appears to be to unite respectability of character and circumstances in the place where the right of voting is to be exercised with a habit of access and resort to that place. This object is attained by the exclusion of lodgers or inmates, having no permanent interest in the place, although a temporary residence, as well as persons having neither residence in the place nor any such connection with it as may induce a habit of access and resort to it" (a). These remarks seem equally applicable to this kind of parliamentary franchise as to the subject to which they were actually directed. A long definition of a householder is given in the *Cirencester case* (b), where the chief point seems to be that in order to be a householder the person should retain command of the outer door of the house, as a special illustration of general control. And upon the whole, it seems that in general terms a householder is one who has a permanent interest in a dwelling house, and a general power of control as regards all others who use the same by his permission and consent.

(3) **Scot and Lot Voters.**—Inhabitants paying scot and bearing lot are the predecessors of the rated occupiers of the present day. Paying scot and bearing lot originally meant paying all rates and taxes and bearing all burdens generally imposed within the borough; and seeing that the poor rates ever since the Poor Relief Act, 1601, have been the most considerable and permanent local tax, the payment of that affords such a presumption that the person paying is in a situation to contribute to the rest, as to have been constantly taken for the criterion of the right to vote (c). Where there is no poor rate it has been referred to payment of church rate, and sometimes both church and poor rate were taken together.

As under the statutes relating to settlements (d) two things were necessary: both rating and payment to the rates (e).

With respect to payment, however, it was the opinion of ABBOTT, C.J., that a scot and lot voter was duly qualified to vote where he had paid the rates for several years past, although he had not paid the poor's rates for the six months previous to the election, because there had been no personal demand of the rates

(a) *Per* ABBOTT, C.J., on the meaning of the term as applied by statute 26 Geo. 3, c. 38, to electors of a clerk of the Court of Requests in Bristol. *Rex v. Hall* (1822), 1 B. & C. 133.

(b) 2 Fra. 447.

(c) 1 Dougl. E. C. 140.

(d) Poor Relief Act, 1691 (3 & 4 Will. & Mary, c. 11); Poor Removal Act, 1795 (35 Geo. 3, c. 101); Poor Relief (Settlement) Act, 1825 (6 Geo. 4, c. 57).

(e) *Milborne Port* (1775), 1 Dougl. 129.



which were due, and no written paper containing a demand of the rates had been left at his house (*f*).

And a scot and lot voter who had paid all the poor rates due from him up to the last day of July in any year in which he claimed to be registered was not disentitled to be registered on the ground that in the previous year his name was struck off the register because he had not paid the poor rates for that year, unless his name had been omitted from the register for two successive years in consequence of non-payment of rates (*g*).

**(4) Potwallers.**—A potwaller has been defined to be one, whether he be a householder or a lodger, who has the sole dominion over a room with a fireplace in it, and who furnishes and cooks his own diet at his own fireplace, or at some other place within the same house, at which fireplace he has a legal right so to do, and who has actually cooked his diet at such fireplace (*h*).

**(5) Extent to which Rights of Residents reserved by Reform Act, 1832.**—Rights of voting in respect of residency as they existed before the Reform Act, 1832 (*i*), being merely personally reserved by the proviso to section 33 of that Act, are of constantly diminishing importance.

As in the case of all other personally reserved rights, it is necessary that the voter should retain his original qualification. This appears from the case of *Jeffrey v. Kitchener*, decided in 1845, with regard to the right of a person claiming to vote as an inhabitant householder.

In that case the claimant was a person who, on June 7th, 1832 (the date of the passing of the Reform Act), was duly qualified to vote as an inhabitant householder, and was duly registered in the first registration under the Act (*i*), and had never since been omitted for two successive years except in consequence of his having received parochial relief. But one year, in the month of October, he and his family ceased to reside within the borough and went to another place, where he remained for fourteen weeks; he then came back again to the borough and immediately again became an inhabitant householder. It was held that he was not entitled to be registered because he had not retained his original right of voting, but had lost it by going away from the borough (*j*).

(*f*) *Cullen v. Morris* (1819), 2 Stark N. P. C. 577, p. 586.

(*g*) *Nicks v. Field* (1846), 4 C. B. 63.

(*h*) *Taunton* (1838), Falc. & Fitz. 311. See also *Allen v. House* (1845), 7 M. & G. 157.

(*i*) 2 & 3 Will. 4. c. 45.

(*j*) *Jeffrey v. Kitchener* (1845), 7 M. & G. 99.

## 6. CORPORATORS.

The right of voting as members of a body corporate might be acquired before the Reform Act, 1832 (*k*), in many different ways, according to the custom of the city or borough, as by birth, servitude, marriage, election, purchase, etc.

(1) **How far Reserved.**—The Reform Act (*k*) dealt with rights of this kind in the following manner:—

The rights of freemen and liverymen of the City of London were reserved to them absolutely.

In cities and boroughs other than the City of London the rights of freemen and burgesses were reserved to them subject to two provisos. The first of these was—that no person elected, made, or admitted a burgess or freeman since March 1st, 1831, otherwise than in respect of birth or servitude should be entitled to vote or be registered as a voter. But this exclusive proviso was not intended to take away inchoate rights; thus where the corporation of Malmesbury consisted of four classes of burgesses or freemen, viz., (1) Capital burgesses (in whom alone was the right of voting, prior to June 7th, 1832), and (2) Assistant burgesses; (3) Landholders; (4) Free burgesses or commoners; and vacancies in the third class were supplied from the fourth by seniority, and in the other classes respectively by election, it was held that a person who was a member of the fourth class by right of birth, before March 1st, 1831, and became a capital burgess by election on June 2nd, 1834, was not disqualified by the above proviso (*l*).

The second proviso was “that no person shall be so entitled as a burgess or freeman in respect of birth unless his right be originally derived from or through some person who was a burgess or freeman, or entitled to be admitted a burgess or freeman previously to the 1st March, 1831, or from or through some person who since that time shall have become or shall hereafter become a burgess or freeman in respect of servitude.”

The general effect of these provisos upon the right to vote in cities and boroughs other than the City of London was that the right to vote was reserved absolutely to freemen or burgesses by servitude.

To freemen or burgesses by birth it is reserved only where their right is derived from or through some person who was a burgess or freeman, or entitled to be admitted as such, previously to

(*k*) 2 & 3 Will. 4, c. 45.

(*l*) *Gale v. Chubb* (1846), 4 C. B. 41. As to Malmesbury, see Municipal Corporations Act, 1883 (46 & 47 Vict. c. 18), s. 5, sched. I.

March 1st, 1831, or who has since that date become a burgess or freeman by servitude.

And the rights of all persons living at the date of the passing of the Act who would, but for the Act, have been entitled to vote in respect of their being members of a corporate body, were, subject to the conditions in the Act contained, reserved to them personally.

It will be convenient, therefore, to treat of these kinds of rights, first, in so far as they are reserved absolutely; and, secondly, in so far as they are reserved only to a limited extent.

(2) **Freemen and Liverymen of City of London.**—In the City of London the right to vote at an election of a member to serve in Parliament depends upon a two-fold qualification, coupling the character of freeman in the City with that of liveryman of one of the livery companies. The Corporation alone has not the power of creating voters, but the right to vote arises from the Act of the various companies admitting freemen to be of their livery.

The distinction drawn in section 32 of the Reform Act, 1832 (*k*), between freemen or burgesses in cities and boroughs generally, and freemen and liverymen of the City of London, was brought forward in *Croucher v. Browne*, decided in 1846.

In that case it was held that a person admitted to the freedom of the Company of Bakers and to the freedom of the City of London by redemption or purchase, in the month of January, 1834, and to the livery of the company in the month of March following, was entitled to be registered as a voter for the City, and was not disqualified by the proviso to section 32 as to freemen or burgesses elected, made, or admitted since March 1st, 1831 (*m*).

(3) **Freemen and Burgesses in other Cities and Boroughs.**—

(A) *Freemen by Servitude.*—In cities and boroughs other than the City of London, the right to vote is reserved absolutely, in the first place, to freemen or burgesses by servitude.

Freedom by servitude is in general acquired by serving an apprenticeship to a freeman engaged in some trade within the borough, and is regarded as being conferred in respect of the benefit which the borough receives from the services of the apprentice, so that it seems the service should be within the limits of the borough, and was so held as to gaining a settlement (*n*).

(*m*) *Croucher v. Browne* (1846), 2 C. B. 97.

(*n*) *Re v. Marshall* (1787), 2 T. R. 2.

If by the custom the right to be admitted a freeman or burgess by reason of having served an apprenticeship is confined to such persons as have served an apprenticeship to a *trade*, it is not sufficient to serve in a *profession*, as, for instance, to serve a solicitor under articles of clerkship (*o*). Although, apart from any such limitation of the custom, there may be apprentices in a profession as well as in a trade, and an apprenticeship as articulated clerk to an attorney has been held sufficient to acquire a settlement (*p*). There is a distinction between a contract of apprenticeship and a mere contract of hiring and service. The foundation of a contract of apprenticeship is that it is a contract to learn and to teach a trade, business, or profession (*q*).

From the earliest times apprentices appear to have been bound by covenant or indenture (*r*).

The full term of apprenticeship depends upon the custom. As a general rule, it is taken at seven years. This was the period fixed by the laws of Alfred for the acquisition of personal freedom by actual slavery (*s*), though there is no reason to believe that apprentices, in the modern sense at least, existed before the time of legal memory. The term was probably first applied to students at law, and afterwards acquired its special signification as meaning one bound to learn a trade. The first place where the term is used in this sense in the Statute Book is in 7 Hen. 4 (*t*). And by the 5 Eliz. c. 4 (*u*), no person was permitted to exercise any trade mentioned therein or then in use without having been brought up seven years as an apprentice. So much of this Act as relates to apprentices was repealed by 54 Geo. 3, c. 96, but not so as to prejudice the customs of London or any other city or town. The custom of London is that an apprentice shall serve seven years (*x*) and many other cities and towns have the same custom, *e.g.*,

(*o*) *Rex v. Doncaster* (1828), 7 B. & C. 630.

(*p*) *St. Pancras v. Clapham* (1860), 2 E. & E. 742.

(*q*) See the following cases as to settlements: *Rex v. Coltishall* (1793), 5 T. R. 193; *Rex v. Laindon* (1799), 8 T. R. 379; *Rex v. Rainham* (1801), 1 East. 531; *Rex v. Mountsorrell* (1814), 2 M. & S. 460; *Rex v. St. Margaret's, Kings Lynn* (1826), 6 B. & C. 97; *Rex v. Combe* (1828), 8 B. & C. 82; *Rex v. Edingale* (1830), 10 B. & C. 739; *Rex v. Great Wishford* (1835), 4 A. & E. 216; *Rex v. Billingham* (1836), 5 A. & E. 676.

(*r*) See *Mer. & Steph.* 726; *Rex v. Stretton* (1748), Burr. S. C. 272; *Rex v. Margram* (1793), 5 T. R. 153; but see 31 Geo. 2, c. 11, and *Woodstock Union v. Shipston-on-Stour Union*, (1892), 62 L. J. M. C. 43, as to settlement by apprenticeship.

(*s*) *Mer. & Steph.* 22.

(*t*) A.D. 1405.

(*u*) A.D. 1562.

(*x*) (1662) 1 Lev. 12.



Guildford (*y*), Doncaster (*z*), Lynn (*a*), Colchester (*b*), Hedon (*c*), and Derby (*d*).

There must be not only a continuance of the binding, but also a continuance of the service, to a freeman or burgess during the whole of the customary period in order to entitle the party to his freedom (*e*).

(**b.**) *Freemen by Birth.*—The right to freedom by birth may be limited by the custom in various ways, *e.g.*, to the sons of freemen, and not to any other relative, as in Barnstaple (*f*); or to children born after the admission of their father as a freeman or burgess, as in Derby (*g*) and Malden (*h*).

The Reform Act, 1832 (*i*), has the effect in cases of claims by birth of making it necessary that the claimant should derive his right from or through some person who was a freeman or burgess, or entitled to be admitted as such, before March 1st, 1831, or who had since become a freeman or burgess by servitude.

It was decided in *Gaydon v. Bencraft* in 1864 that this limitation does not restrict the right to one generation after the passing of the Act, but preserves the right as a continuous lineal right to all persons claiming to be freemen by or through such persons as are mentioned in the Act.

In that case the custom of Barnstaple was proved to be that sons of freemen were entitled, on proving their father's marriage, that they were born of that marriage, and that they had attained the age of twenty-one years, to be admitted as freemen of the borough. The claimant could not show that his father was admitted before March 1st, 1831, but proved that his father was admitted in right of birth as the son of the claimant's grandfather, who was a freeman previously to that date. It was held that the claimant derived his right to be admitted from his grandfather, and was entitled to be registered (*j*).

(**4**) **Rights personally Reserved.**—The rights personally reserved to corporators living at the date of the passing of the Reform Act, 1832 (*k*), become every year of less importance, for, as in the other cases of rights merely personally reserved, the

(*y*) (1710) 16 Comm. Journ. 477.

(*z*) (1828) 7 B. & C. 630.

(*a*) Mer. & Steph. 761, 762.

(*e*) *Rex v. Inman* (1820), 4 B. & Ald. 55; *Smith's Case, Lichfield* (1842), Barr. & Aust. 370.

(*f*) (1864) 18 C. B. (N.S.) 11.

(*g*) (1776) 3 Dougl. E. C. 299.

(*j*) *Gaydon v. Bencraft* (1864), 18 C. B. (N.S.) 11.

(*k*) 2 & 3 Will. 4, c. 45.

(*b*) (1820) 4 B. & Ald. 55.

(*c*) (1787) 2 T. R. 2.

(*d*) (1776) 3 Dougl. E. C. 299.

(*h*) (1838) Falc. & Fitz. 648.

(*i*) 2 & 3 Will. 4, c. 45, s. 32.

persons to whom they are reserved must be at the present time well over the threescore years and ten which, according to an ancient authority, is the ordinary span of human life.

(5) **Occasional Freemen.**—Since the constitution of some boroughs previous to the Reform Act, 1832, admitted of freemen or burgesses having the right to vote for members of Parliament for the borough being made by purchase or favour, it was not unusual that large numbers of occasional freemen should be elected, and the Durham Act (*l*), forbidding any to vote as freemen unless admitted to their freedom twelve calendar months before the first day of the election, was passed in 1763 with a view to preventing this practice. At the present day, however, as already shown, the right to vote as a corporator must be acquired in cities and boroughs (other than the City of London) by methods not permitting of occasionality. Indeed, it is enacted by the Municipal Corporations Act, 1882, that no person shall be admitted a freeman by gift or by purchase (*m*). To this certain exceptions are made by the Honorary Freedom of Boroughs Act, 1885 (*n*), providing for the admission of persons of distinction, and any persons who have rendered eminent services to the borough to be honorary freemen, but subject to a proviso “that the admission of such persons to be freemen shall not confer the right of voting for any such borough in parliamentary or other elections.”

As regards freemen and liverymen of the City of London, special provision is made by 11 Geo. 1, c. 18, s. 14, whereby such freemen and liverymen have no right to vote unless they have been upon the livery for twelve calendar months before the election, and have paid their respective livery fines without receiving any part back again, or any allowance in respect thereof.

## 7. GENERAL CONDITIONS OF RESERVED RIGHTS.

Of the general conditions as to registration and residence required in all cases of reserved rights by the Reform Act, 1832 (*o*), it is only necessary at this point to refer more particularly to the requirement of residence, because registration is only required for the purposes of the right to vote to precisely the same extent as in the case of all other rights of voting, and is, therefore, generally discussed hereinafter (*p*).

## 8. RESIDENCE.

It may have been doubtful whether residence was, apart from

(*l*) Freemen (Admission) Act, 1763 (3 Geo. 3, c. 15). This Act, however, does not extend to London or Norwich.

(*m*) 45 & 46 Vict. c. 50, s. 202.

(*n*) 48 & 49 Vict. c. 29.

(*o*) 2 & 3 Will. 4, c. 45.

(*p*) *Post*.

charter or custom, a necessary part of the qualification of voters in cities and boroughs previous to 14 Geo. 3, c. 58(*q*); but since that Act up till the Reform Act, 1832(*r*), residence was certainly no part of such qualification, except where required by charter or custom(*s*).

Enormous expense, however, being occasioned by the practice of bringing voters from long distances to take part in the elections for cities and boroughs in which they had no direct interest, to the subversion of the true principles of representation, and to the disappointment of those who knew the locality and had a permanent interest there, the Legislature thought fit to interfere, and to impose the condition of residence(*t*).

(1) **Period of Residence.**—The requisite period of residence in all cases of reserved rights is for six calendar months previous to the fifteenth day of July in the qualifying year(*u*).

(2) **Local Limits of Residence.**—In the case of burgage tenants and freeholders in cities and towns being counties of themselves, the residence must be within such city or town, or within seven statute miles thereof or of any part thereof(*x*).

In the case of freemen and liverymen of the City of London the residence must be within the said city, or within twenty-five miles thereof or any part thereof(*y*).

In the case of freemen or burgesses of any other city or borough to whom the right of voting in respect of servitude or birth is reserved by section 32 of the Reform Act, 1832, the residence must be within such city or borough, or within seven statute miles from the place where the poll for such city or borough has previously to the date of the passing of the Act, viz., June 7th, 1832, been taken; or in the case of freemen or burgesses of any place sharing in the election of any city or borough, within such place, or within seven statute miles of the place mentioned therein in Schedule E. 2 to the Act. It is sufficient if the residence be within the limits of the city or borough as extended by the Boundary Act, 1832, although not within the ancient limits as they existed before the passing of that Act(*z*).

In the case of any ancient right merely personally reserved the residence must be within the city or borough, or within seven

(*q*) 1774. (*r*) 2 & 3 Will. 4, c. 45. (*s*) Heyw. Bor. El. 186.

(*t*) *Per* DENMAN, J., in 3 C. P. D. at p. 79, and 2 Hopw. & Colt. p. 382.

(*u*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), ss. 31, 32, and 33; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 46; Parliamentary and Municipal Registration Act, 1878 (40 & 41 Vict. c. 26), s. 7.

(*x*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 31.

(*y*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 46.

(*z*) *Jarvis v. Peele* (1851), 11 C. B. 15.

statute miles from the place where the poll has previously to June 7th, 1832, been taken ; or, where the qualification is within any place sharing in the election for any city or borough, within such place or within seven statute miles of the place mentioned therewith in Schedule E. 2 to the Act.

No specific direction having been given in the Reform Act, 1832 (*a*), as to the manner of measuring the distance of seven miles, there was for some time a great conflict of opinion upon it.

In penal and prohibitory statutes, such as that forbidding the residence of Nonconformist ministers within five miles of a borough (*b*), the distance was taken by the nearest mode of access, and so also in covenants in restraint of trade (*c*). But then it was said, on the other hand, that the Reform Act was intended to operate beneficially for the extension of the elective franchise, and, besides, a geometrical measurement would be more certain. Nevertheless, in the Municipal Corporations Act, 1835 (*d*), the distance of seven miles in that Act mentioned was to be measured by the nearest public way by land or water. However, in Ireland it was held upon the Irish Acts that the distance should be measured in a mathematical straight line (*e*).

In order, therefore, to put an end to these doubts as to the mode of admeasurement, it was enacted by section 76 of the Parliamentary Registration Act, 1843 (*f*), that the distance is to be measured in a straight line on the horizontal plane from the point within any city, or borough, or place sharing in the election therewith, from which such distance is to be measured, and if there is an Ordnance map of the district the distance may be measured on it.

There can be no doubt, also, the distance of twenty-five miles as regards electors for the City of London, substituted by section 46 of the Representation of the People Act, 1867 (*g*), for the seven miles, may be measured in the same manner, as the arguments in favour of that method of measurement are greatly strengthened by the enactment as to the seven miles, and a series of cases since decided on other statutes (*h*).

(*a*) 2 & 3 Will. 4, c. 45.

(*b*) 17 Car. 2, c. 2, commonly called the Five Mile Act.

(*c*) *Leigh v. Hind* (1829), 9 B. & C. 774 ; diss. PARKE, J. ; but the rule in these cases now is that the distance is taken as the crow flies (see *Moufflet v. Cole* (1872), L. R. 8 Ex. 32), unless the contrary intention appears : *Atkyns v. Kinnier* (1850), 4 Ex. 776.

(*d*) 5 & 6 Will. 4, c. 76, s. 9. See now, however, the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 231.

(*e*) *Daly's Case* (1832), Alc. R. C. R. 253 ; *Johnson's Case*, *Youghal* (1838), Falc. & Fitz. 395.

(*f*) 6 & 7 Vict. c. 18, s. 76.

(*g*) 30 & 31 Vict. c. 102.

(*h*) *R. v. Saffron Walden* (1846), 9 Q. B. 76 ; *Stokes v. Grissell* (1854), 14 C.B.



If the question of measurement comes to a matter of a few yards, more or less, probably the distance may be taken to the curtilage of the residence, and need not be taken to the walls of the house (*i*).

**(3) What constitutes Residence.**—As to what is meant by residence, cases decided upon statutes passed *alio intuitu* as those relating to settlements afford no assistance. The object of those statutes is to ascertain the apportionment of a public burthen, viz., the support of the poor. The object of the residence required by the Reform Act was, as already pointed out (*k*), very different.

“It is not very easy accurately to define what constitutes a sufficient residence for the purposes of voting. The rule upon this subject may, however, perhaps be stated thus: That in order to constitute residence, a party must possess at least a sleeping apartment; but that an uninterrupted abiding at such dwelling is not requisite. Absence, no matter how long, if there be the liberty of returning at any time, and no abandonment of the intention to return whenever it may suit the party's pleasure or convenience so to do, will not prevent a constructive legal residence. But if he has debarred himself of the liberty of returning to such dwelling by letting it, for a period however short, or has abandoned his intention of returning, he cannot any longer be said to have even a legal residence there” (*l*).

To this doctrine so laid down, ERLE, C.J., says (*m*) that he entirely subscribes; and upon the whole the statement seems to contain in a compendious form the correct rule, so far as it is capable of reduction to definite terms.

The following cases illustrate the meaning of the residence required in all cases of reserved rights. In *Whithorn v. Thomas*, decided in 1844, it was held that a merely colourable residence is not sufficient. In that case the claimant, being a freeman of the borough of Tewkesbury, was a married man with a wife and family, living in Gloucester, more than seven miles from Tewkesbury, and carrying on his business there. But he paid to a friend of his the sum of ninepence a week for the use of a furnished bedroom and a dark closet in Tewkesbury, and he kept

678; *Lake v. Butler* (1855), 5 E. & B. 92; *Jewel v. Stead* (1856), 6 E. & B. 350; *Duignan v. Walker* (1857), Johns. 146. See Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 34. In some statutes the contrary intention appears, e.g. in s. 10 of the Licensing Act, 1874 (37 & 38 Vict. c. 49); and see *Coulbert v. Troke* (1875), 1 Q. B. D. 1; *Parker v. Reg.*, [1896] 2 L. R. 401.

(i) *Wright v. Wallasey Local Board* (1887), 18 Q. B. D. 783.

(k) *Ante*, p. 131.

(l) Elliott, p. 204.

(m) *Powell v. Guest* (1864), 18 C. B. (n.s.) at p. 80.

the key of the closet and used it for some wine samples in his business as a wine merchant. During the six months previous to the last day of the qualifying period he slept in the bedroom twelve times on the occasions of his coming to Tewkesbury on business. The court held that upon these facts there was not enough to show that the revising barrister was wrong in coming to the conclusion that the claimant had not resided in the borough of Tewkesbury (*n*).

In 1872, in the case of *Ford v. Hart*, it was decided that the voluntary act of the party in debarring himself of the liberty of returning at pleasure determines residence. In that case the claimant was a freeman of the City of Exeter, and had been for several years an officer in the army. Except when on leave he was stationed with his regiment in barracks, more than seven miles from the City of Exeter. He had usually obtained leave for three months in each year, and when on leave resided in his mother's house in the City of Exeter. His mother had set apart two rooms in her house, one being a sleeping apartment, for his exclusive use; and some of his clothes and other property remained there while he was with his regiment. He was not married, and had actually resided in his mother's house for three months out of six previous to the last day of the qualifying period. The court held that upon these facts the revising barrister could not legally find that the claimant had resided in the city as required by the statute, on the ground that by entering the army the claimant had voluntarily incapacitated himself from returning to his residence in the city at his own pleasure, and could not do so without the Queen's permission expressed through his commanding officer (*o*). The principle of this case was adopted in the subsequent cases of *Ford v. Drew* (*p*) and *Beal v. Town Clerk of Exeter* (*q*).

It was held in the case of *Beal v. Ford*, in 1877, that the residence need not be as a matter of right.

In that case the claimant, a freeholder in the borough of Exeter, during the six months previous to the last day of the qualifying period resided within the borough in his own house, except for a period of one month, during which he had no house of his own,

(*n*) *Whithorn v. Thomas* (1844), 7 M. & G. 1.

(*o*) *Ford v. Hart* (1873), L. R. 9 C. P. 273. Compare the case of a party who was deterred from returning to his residence within the borough by reason of imprisonment upon a conviction for assault, a case which was decided upon the requirement of residence by section 27 of the Reform Act, 1832. *Powell v. Guest* (1864), 18 C. B. (N.S.) 72. See judgment of BRETT, J., in *Ford v. Hart*.

(*p*) *Ford v. Drew* (1879), 5 C. P. D. 59.

(*q*) *Beal v. Town Clerk of Exeter* (1887), 20 Q. B. D. 300.

but lived with his mother-in-law as her guest in almshouses within the borough where his mother-in-law was an occupant. During this month, with the exception of one night, when the claimant was absent in London on business, the claimant, his wife and child, exclusively occupied one sleeping apartment in the house occupied by his mother-in-law, and used other rooms during the day in common with her. The court held that upon these facts the revising barrister could not legally find that the claimant had not resided within the borough as required by the statute (*r*).

## II.—TEN POUNDS OCCUPATION.

*A person entitled to be registered as a parliamentary elector in a borough in respect of a ten pounds occupation qualification—*

- (A.) *Must during the whole twelve months immediately preceding the fifteenth day of July (s), in the year in which he is registered, have been an occupier as owner or tenant, (t) of some land or tenement (u) within the borough, of the clear yearly value of not less than ten pounds ; and*
- (B.) *Must have resided in or within seven miles of the borough (v) during six months immediately preceding (w) the fifteenth day of July (x) in the same year ; and*
- (C.) *Such person (u) or some one else (y) must, during the said twelve months, having been rated to all poor rates made in respect of such land or tenement ; and*
- (D.) *All sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the fifth day of January (z) in the year in which such person is registered or on account of any assessed taxes due before the said fifth day of January (z), must have been paid on or before the following twentieth of July (w).*

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(*r*) *Beal v. Ford* (1877), 3 C. P. D. 73.

(*s*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7.

(*t*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 27 ; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 11.

(*u*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 5.

(*v*) In the case of the City of London substitute 25 for 7 miles. Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 46.

(*w*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 27 ; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 5, 11.

(*x*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7.

(*y*) Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 19 ; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 14 ; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 8, 11.

(*z*) 11 & 12 Vict. c. 90.

*If two or more persons jointly are such occupiers as above mentioned, and the value of the land or tenement is such as to give ten pounds or more for each occupier, each of such occupiers is entitled to be registered as a parliamentary elector (a).*

*If a person has occupied within the same borough different lands or tenements of the requisite value, in immediate succession during the said twelve months, he is entitled, in respect of the occupation thereof, to be registered as an elector in the parish or township in which the last occupied land or tenement is situate (b).*

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This qualification may be regarded as compounded (c) of

1. FOUR ELEMENTS—(1) tenement ; (2) value ; (3) occupation ; and (4) estate ; and the person possessed of a qualification so compounded will be entitled to be registered, provided also that
2. THREE CONDITIONS have been fulfilled, viz., as to (1) residence ; (2) rating ; and (3) payment of rates and taxes.

#### 1. ELEMENTS OF QUALIFICATION.

(1) **Tenement.**—The first element is described in section 5 of the Representation of the People Act, 1884, as “land or tenement” (d).

Previous to this enactment, land by itself was not a sufficient tenement for the purposes of the ten pounds occupation qualification in a borough, because the Reform Act, 1832 (e), merely permitted of land when occupied together with a building being available for the purpose of making up the requisite value where the building, taken by itself, would not have been of sufficient value.

The legal signification of the word “land” includes houses or buildings (f), and the word “tenement,” though in its vulgar acceptance it is only applied to houses and other buildings, yet in its original, proper, and legal sense it signifies everything that may be holden, provided it be of a permanent nature (g). In the case of land, it is not necessary that it should be defined by specific

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(a) Reform Act 1832 (2 & 3 Will. 4. c. 45), s. 29 ; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 5, 11.

(b) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 28 ; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 5, 11.

(c) *Cf.* the judgment of the Court of Common Pleas, *per* ERLE, C.J., in *Cook v. Humber* (1861), 11 C. B. (N.S.) p. 40.

(d) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 5.

(e) 2 & 3 Will. 4, c. 45, s. 27.

(f) Co. Litt. 4a. ; 2 Bl. Comm. 17 ; see also *ante*, p. 18.

(g) 2 Bl. Comm. 17 ; see also *per* COTTON, L.J., in *Dashwood v. Ayles* (1885), 16 Q. B. D. 301.



metes and bounds. Thus where the lessee of Spitalfields Market in the parliamentary borough of the Tower Hamlets, sublet the area of the market to occupiers of stands at annual payments of more than 10*l.*, the spaces occupied were not marked or enclosed, but the precise position of each stand was known to the lessee, the occupier, and the occupiers of the other stands, and it was held that the occupiers were entitled to be registered (*h*).

The nature, however, of the tenement is limited by the conditions as to rating and payment of rates to such tenements as are, or would be of a rateable character, but for the fact that they are by law exempt from being rated, such as Crown property.

Rateable hereditaments include, by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, lands, houses, tithes impropriate, or propriations of tithes, coal mines, and saleable underwoods; and by the Rating Act, 1874, land used for a plantation or wood, or for the growth of saleable underwood, and not subject to any right of common; also rights of fowling, of shooting, of taking or killing game or rabbits, and of fishing, when severed from the occupation of the land; and also mines of every kind not mentioned in the Act of Elizabeth (*i*).

The chief exemptions are as follows: Crown property, such as the Royal palaces, the Houses of Parliament, the Government offices, as the Post Office, the Horse Guards, and the Admiralty (*k*); army barracks and stables (*l*); convict prisons (*m*); local post offices (*n*); bridges in the occupation of the Commissioners of Works (*o*); courts of assize and quarter sessions, judges' lodgings, police stations, etc. (*p*); Government telegraphs (*q*); militia storehouses (*r*); volunteer storehouses (*s*); churches, chapels, and other places of religious worship (*t*); property belonging to any

(*h*) *Hall v. Metcalfe*, [1892] 1 Q. B. 208.

(*i*) Rating Act, 1874 (37 & 38 Vict. c. 54), s. 1.

(*k*) *Leith Harbour and Docks Commissioners v. Inspector of the Poor* (1866), L. R. 1 H. L. Sc. 17.

(*l*) *Lord Amherst v. Lord Sommers* (1788), 2 T. R. 372.

(*m*) *Gambier v. Lydford Overseers* (1854), 3 E. & B. 346.

(*n*) *Smith v. Birmingham Guardians* (1857), 7 E. & B. 346.

(*o*) *R. v. McCann* (1868), L. R. 3 Q. B. 141.

(*p*) *Hodgson v. Carlisle Local Board* (1857), 8 E. & B. 116; *R. v. St. Martin's, Leicester* (1867), L. R. 2 Q. B. 493; *Nicholson v. Holborn Union* (1886), 18 Q. B. D. 161; *MacHarg v. Stoke-upon-Trent Union* (1884), 48 J. P. 775; *Showers v. Chelmsford Union*, [1891] 1 Q. B. 339; *Middlesex County Council v. St. George's Union*, [1897] 1 Q. B. 64; *Worcestershire County Council v. Worcester Union Assessment Committee*, [1897] 1 Q. B. 480.

(*q*) Telegraphs Act, 1868 (30 & 31 Vict. c. 110), s. 22.

(*r*) Militia Law Amendment Act, 1854 (17 & 18 Vict. c. 105), s. 2. But see *R. v. Fuller* (1855), 8 E. & B. 365 n.

(*s*) Volunteer Act, 1863 (26 & 27 Vict. c. 65), s. 26. *Pearson v. Holborn Union Assessment Committee*, [1893] 1 Q. B. 389.

(*t*) Poor Rate Exemption Act, 1833 (3 & 4 Will. 4, c. 30).

duly certified society instituted for purposes of science, literature, or the fine arts exclusively, if supported wholly or in part by annual voluntary contributions, and not making any dividend, gift, division or bonus in money unto or between any of its members (*u*) ; Sunday schools and ragged schools (*x*) ; lighthouses and property belonging to or occupied by any of the general lighthouse authorities or by the Board of Trade (*y*).

Probably the nature of the tenement is still further limited, because the Representation of the People Act, 1884, is, so far as may be consistently with the tenor thereof, to be construed as one with the enactments for the time being in force relating to the representation of the people, and to the registration of persons entitled to vote at parliamentary elections, and to rating, so far as concerned with registration (*z*).

And so the nature of the tenement, not being land, might be restricted to such tenements as under the Reform Act, 1832, and the Acts amending the same, might have been the subject of a ten pounds occupation qualification, as it existed previously to the Representation of the People Act, 1884.

The tenement which might have been the subject of a ten pounds occupation qualification in a borough, previously to the Representation of the People Act, 1884, must have been either a house, warehouse, counting-house, shop, or other building (*a*) *ejusdem generis*, or any part of such building separately occupied for the purposes of residence or any trade, business, or profession, although not structurally severed from the remainder of such building, and although the occupier might be entitled to the joint use of any other part of the same building (*b*), and in certain cases the value of the building might have been eked out with land occupied therewith in the same borough (*c*).

Assuming, therefore, that the tenement, not being land, which may now be the subject-matter of a ten pounds occupation qualification in a borough, must be of the same nature as the tenement which might be the subject of a ten pounds occupation qualification in a borough previously to the passing of the Repre-

(*u*) Scientific Societies Act, 1843 (6 & 7 Vict. c. 36). See *Saroy Overseers v. Art Union of London*, [1896] A. C. 296.

(*x*) Sunday and Ragged Schools (Exemption from Rating) Act, 1869 (32 & 33 Vict. c. 40). See *Bell v. Crane* (1873), L. R. 8 Q. B. 481.

(*y*) Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 731.

(*z*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), ss. 8, 11.

(*a*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 27.

(*b*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 5.

(*c*) *Post*, p. 144.

sentation of the People Act, 1867, buildings may be classed, as a general rule, either as residential or commercial—as houses, for residence; warehouses, counting-houses, shops, etc., for trade, business, or profession.

A building which is substantially but one block, may, as a matter of fact, be used partly for residence and partly for the purposes of a trade, business, or profession, and such parts may be, as a matter of fact, either structurally severed from each other or not; and so also, where different parts of the same block are used by different persons separately for similar purposes, residential or commercial, such parts may be either structurally severed from each other or not.

Buildings entirely occupied for residential purposes are not, unless so occupied by joint occupiers, the subject-matter of a ten pounds occupation qualification, but of a household qualification, as hereinafter considered (*d*).

And any part of a building separately occupied by a single occupier for residential purposes is, whether structurally severed or not, the subject not of a ten pounds occupation qualification, but of a household qualification.

But a building, or any part of it, whether structurally severed or not, if jointly occupied by joint occupiers for residential purposes, or occupied, whether separately by a single occupier or jointly by joint occupiers, for commercial purposes, may be the subject of a ten pounds occupation qualification.

Before the passing of the Representation of the People Act, 1867, it had been decided in the cases of *Cook v. Humber* (*e*) and *Henrette v. Booth* (*f*), that a part of a house though commonly called a house does not become a house in law unless there was an actual severance of such part from the remainder.

After the passing of the Representation of the People Act, 1867, the point remained very doubtful, and the courts were equally divided upon it in the cases of *Thompson v. Ward*, *Ellis v. Burch* (*g*) and *Boon v. Howard* (*h*).

It had been decided in the cases of *Wilson v. Roberts* (*i*) and *Cuthbertson v. Butterworth* (*k*), that any part of a building (such part not being a shop, warehouse, or counting-house) if used for

(*d*) *Post*, p. 189.

(*e*) *Cook v. Humber* (1861), 11 C. B. (N.S.) 33.

(*f*) *Henrette v. Booth* (1863), 15 C. B. (N.S.) 500.

(*g*) *Thompson v. Ward*, *Ellis v. Burch* (1871), L. R. 6 C. P. 327.

(*h*) *Boon v. Howard* (1874), L. R. 9 C. P. 277.

(*i*) *Wilson v. Roberts* (1861), 11 C. B. (N.S.) 50.

(*k*) *Cuthbertson v. Butterworth* (1868), L. R. 4 C. P. 523.

the purposes of a trade, business, or profession, must be structurally severed from the remainder in order to come within the meaning of the term "other building" in section 27 of the Reform Act, 1832; and in the case of *Piercy v. Maclean* (l), that part of a building used as a counting-house need not have been structurally severed from the remainder of the building, of which it formed part, in order to be a "counting-house" within the meaning of the same section.

But the whole question of structural severance was disposed of by section 5 of the Parliamentary and Municipal Registration Act, 1878, whereby it was enacted that "in and for the purposes of the Reform Act, 1832, and the Municipal Corporations Acts, the terms 'house, warehouse, counting-house, shop, or other building' shall include any part of a house where that part is separately occupied for the purposes of any trade, business, or profession; and any such part may for the purpose of describing the qualification be described as 'office,' 'chambers,' 'studio,' or by any like term applicable to the case.

"In and for the purposes of the Representation of the People Act, 1867, the term 'dwelling-house' shall include any part of a house where that part is separately occupied as a dwelling.

"For the purposes of any of the Acts referred to in this section, where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part.

"The interpretation contained in this section of 'dwelling-house' shall be in substitution for the interpretation thereof contained in section 61 of the Representation of the People Act, 1867, but not so as to affect any of the other provisions of the said Act relating to rating" (m).

The only point left open to doubt after this enactment is the case where part of a house is occupied by two or more joint occupiers as a dwelling, and not for the purposes of any trade, business, or profession.

In such a case the occupiers could not be registered in respect of a household qualification, because their occupation is joint.

And section 5 of the Parliamentary and Municipal Registration Act, 1878, does not say in terms that the word "house" shall

(l) *Piercy v. Maclean* (1870), L. R. 5 C. P. 252.

(m) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 5.



include any part of a house separately occupied for any other purpose than those of a trade, business or profession.

Yet it is certain that if part of a house separately occupied as a dwelling by joint occupiers were of sufficient value, such joint occupiers would be entitled to be registered unless they were prevented by the fact that such part was not structurally severed from the remainder.

It is not to be supposed that because part of a building may be a tenement within the meaning of section 5 of the Representation of the People Act, 1884 (*n*), and because in that section the word "tenement" is used in the singular, that therefore, where an entire building forming substantially one block, or part of one block, is structurally severed into parts, the whole, when occupied as a whole by the same occupier or joint occupiers, must be regarded as consisting of several tenements, and not as one tenement.

Under the Reform Act, 1832, although the word "building" is used in the singular in the sections relating to a ten pounds occupation qualification as thereby constituted, it was held in the cases of *Pownall v. Dawson* and *Joliffe v. Rice* that a "building" within the meaning of the Act might consist of several parts, although structurally severed from one another, provided that the parts were parts of one entire block, or of part of one entire block where such part was occupied as a whole by the same occupier.

In *Pownall v. Dawson*, decided in 1851, the subject of occupation was a row of premises consisting of a two-stalled stable with a hayloft over it, built of brick; annexed to which, but of a lower elevation, was another brick building, to which again was annexed an irregular wooden building divided into compartments, and each of these compartments, as well as each of the two brick buildings, had a door in front opening into the same yard, and were used by the occupier for the purposes of his trade as a wheelwright and coachbuilder in the following manner. He never used the stable as such, but always as a painting shop. The adjoining brick building he used as his carpentering shop, and the several compartments of the wooden building as places of deposit for the rough materials of his trade, and as stands for gigs and other carriages of his own construction, or which were left with him for repair. The three buildings or portions of buildings were closely annexed to each other; but there was no internal communication between them except a door between two of the compartments of the

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(*n*) 48 & 49 Vict. c. 3.

wooden portion, which were used as stands for carriages. It was held that the whole of the premises were for the purposes of the Act one "building" (o).

The earlier case of *Joliffe v. Rice*, in 1848, goes to the same point, and being cited during the argument in *Pownall v. Dawson*, was said by MAULE, J., to be decisive, but is, perhaps, hardly so strong a case upon the facts, there being some sort of internal communication between the compartments of the building in question, and also one continuous roof.

In *Joliffe v. Rice* the subject of occupation consisted of a coach-house and stable adjoining one another and under the same roof, the stable standing at the back of the coach-house, and there being two grated windows looking from one into the other, but no means by which a person could pass from one into the other. The door of the coach-house was under a covered gateway leading from the street into a yard. The door of the stable was in the yard, round the corner of the gateway, and a few yards distant from the door of the coach-house. The yard and gateway were used in common by the occupier and others occupying different premises in the yard. There was one large room over the coach-house and stable not occupied by the occupier of the coach-house and stable. It was held that the coach-house and stable formed one "building" within the Act (p).

It has not yet been decided with reference to the ten pounds occupation qualification as at present constituted whether two or more separate and distinct blocks of building not annexed to each other nor within the same curtilage, and not, if taken together, of the requisite value, can under any circumstances be taken together to constitute one entire qualification under section 5 of the Representation of the People Act, 1884 (q).

Under the Reform Act, 1832, it was held that separate and distinct buildings not annexed to each other nor within the same curtilage, and not, if taken separately, of the requisite clear yearly value of ten pounds, but which would have been, if taken together, of the requisite value, could not under any circumstances be taken together so as to form one entire qualification.

This was decided in the cases of *Dewhurst v. Fielden* and *Powell v. Price*.

In *Dewhurst v. Fielden*, which was decided in 1845, the subject of occupation consisted of a joiner's shop of less than the required

(o) *Pownall v. Dawson* (1851), 11 C. B. 9.

(p) *Joliffe v. Rice* (1848), 6 C. B. 1.

(q) 48 & 49 Vict. c. 3.

value, and also, some three hundred yards distant from the joiner's shop, a warehouse and two yards together of less than the required value. The premises, including the joiner's shop, the warehouse, and the two yards, if taken all together, were of sufficient value, and were occupied by the occupiers as owners. There were many buildings and other property lying between the joiner's shop and the warehouse and yards, which buildings and other property were the property and in the occupation of other and different persons. It was held that the warehouse and yards and joiner's shop could not be taken together to constitute one entire qualification within the Act (*r*).

In *Powell v. Price*, decided in 1847, the subject of occupation was a dwelling-house and a bakehouse annexed thereto, having a yard in front, and a passage leading out of the yard into the street, with a shop on the opposite side of the yard to the dwelling-house and bakehouse, adjoining the passage on one side, but on the other adjoining property not in the occupation of the same person; and the dwelling-house, bakehouse, and shop were occupied by the occupier as owner. The shop was not contiguous to the dwelling-house and bakehouse in any way; nor was it connected with them by any intermediate building, fence, or other matter than the soil of the yard. There was no common curtilage enclosing the shop, yard, dwelling-house, and bakehouse. It was held that the shop could not be taken together with the dwelling-house and bakehouse to constitute one entire qualification within the Act (*s*).

It has not yet been decided whether two or more separate and distinct pieces of land not locally contiguous to each other nor within the same curtilage, and not, if taken separately, of the requisite clear yearly value of ten pounds, but which would, if taken together, be of the requisite value, can under any circumstances be taken together to constitute one entire qualification under section 5 of the Representation of the People Act, 1884 (*t*).

Under the Reform Act, 1832, land was not by itself capable of being the subject of a ten pounds occupation qualification as constituted by that Act.

If, however, the same principle which was applied to separate buildings under the Reform Act, 1832, is still to be applied under section 5 of the Representation of the People Act, 1884, perhaps it may also be applied to separate pieces of land.

(*r*) *Dewhurst v. Fielden* (1845), 7 M. & G. 182.

(*s*) *Powell v. Price* (1847), 4 C. B. 105.

(*t*) 48 & 49 Vict. c. 3.

It has not yet been decided with reference to the ten pounds occupation qualification as at present constituted how far a building in one part of a borough and land in another part of the same borough, but not locally contiguous to the building, may be taken together in order to make up one entire qualification, where neither the building without the land, nor the land without the building, is of sufficient value to make one entire qualification by itself.

Under the Reform Act, 1832, the cardinal point of the qualification was always the building, but land might under certain conditions be available for the purpose of eking out the value of the building where the building was not by itself of sufficient value.

In such case the building had to be of some permanence, some utility, and some real value to the occupier, having regard to the purposes for which it was occupied (*u*).

But the land, so long as it was within the same borough, need not have been locally contiguous to the building (*x*); but if the building and the land were occupied by the occupier "as tenant," then the land had to be occupied by him "as tenant to the same landlord," as the building, that is to say, the land had to be continuously occupied during the whole of the qualifying period under an original taking from the same landlord as the building, although a severance of the reversion during the qualifying period would not have affected the qualification (*y*).

Although it can no longer be said that the building, supposing a building in one part of a borough and land in another part of the same borough, but not locally contiguous to the building, can be now taken together for the purpose of constituting one entire ten pounds occupation qualification, must in all cases be taken to be the cardinal point of the qualification to which the land is merely accessory, yet it seems that in such case the building must still have some permanence, some utility, and some real value to the occupier, having regard to the purposes for which it is occupied, or else it adds nothing to the land and need not be taken into consideration at all.

The cases under the Reform Act, 1832, may, therefore, still be cited to that intent, and consequently are here inserted.

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(*u*) *Whitmore v. Bedford* (1843), 5 M. & G. 9; *Watson v. Cotton* (1847), 5 C. B. 51; *Powell v. Boraston* (1865), 18 C. B. (N.S.) 175; *Powell v. Farmer* (1865), 18 C. B. (N.S.) 169; *Morish v. Harris* (1865), L. R. 1 C. P. 155.

(*x*) *Collins v. Thomas* (1852), 12 C. B. 639.

(*y*) *Smerdon v. Tucker* (1859), 7 C. B. (N.S.) 37.



In *Whitmore v. Bedford*, decided in 1843, the building consisted of a cow-house or stable, substantially built of stone, roofed with tiles, and having a door with a lock and key, the whole being suitable for the purpose for which it was erected and used, and conveniently placed for the occupation of the claimant's land. The objection was that this was not a building *ejusdem generis* with those specified in the section, but the court held that it was a "building" within the Act (z).

Two similar cases, *Peele v. Downes* and *Peele v. Williams* (a), were decided without argument on the same day as the above case, the facts being admitted to be undistinguishable from the principal case.

The case of *Watson v. Cotton*, decided in 1847, has been supposed to decide that whether the thing described is more or less substantial does not affect the question whether it is a building.

The true effect of the decision is very different, and appears from the remarks made upon it by the court in the later case of *Powell v. Boraston* (b) decided in 1865.

In *Watson v. Cotton* the subject of occupation consisted of a wharf and shed. The shed stood against a wooden paling which was the boundary of the wharf, but the shed was not fastened to the paling. The shed was formed by six posts put into the ground, supporting a tarpaulin or tar cloth, which served for the roof. One of the sides of the shed was boarded up with boards fastened to the posts by nails. The shed was used for purposes connected with the occupation of the wharf. The occupier put into it his barrows, shovels, and coal baskets; and one Marks, who rented a part of the wharf from the occupier for the purpose of making hoops, was allowed to put hoops and poles into the shed during six months, paying wharfage for the use of it. The revising barrister held that this shed was properly described as a "building" within section 27 of the Reform Act, 1832 (c). The court decided that this decision must stand, because the court were not satisfied from the description given by the revising barrister that the thing described could not be a building within the meaning of the Act (d).

In *Powell v. Boraston* the court say that the report of this case in 5 C. B. 51 does not warrant the inferences drawn from it in the note to 2 Lutw. R. C. 58. And they also say that the judges did not hold that the shed *as described* was a "building" within the

(z) *Whitmore v. Bedford* (1843), 5 M. & G. 9.

(a) 5 M. & G. 13 n.

(c) 2 & 3 Will. 4, c. 45.

(b) 18 C. B. (N.S.) 181.

(d) *Watson v. Cotton* (1847), 5 C. B. 51.

Act: but that they held it to be their duty to assume any possible facts not excluded by the case for the purpose of affirming the finding of the revising barrister. The revising barrister found it to be a building; and the judges said that consistently with the case the shed may have been on two sides of solid masonry, and may have been of a very substantial and valuable character, and may have been used for the stowage of goods; the judges therefore refused to reverse the decision of the revising barrister.

The case of *Powell v. Boraston*, in the course of which the court made these remarks upon *Watson v. Cotton*, was as follows:—

The occupier was tenant of farm land on which there was no building at the time of the demise nor for years after. Then an electioneering agent, having no interest of any sort in the land, caused a shed made of boards nailed to posts let three feet into the ground to be erected for the purpose of creating a vote, and the occupier kept agricultural implements within the shed. The shed in question was so loosely put together that it was in part destroyed before the required period had elapsed. The revising barrister held that this shed was a “building” within the Act. The court reversed this decision, upon the ground that it appeared from the case as stated by the revising barrister that the shed was not adapted to be used either for residence or for the industry to which the statute relates, and did not possess the degree of durability which is included in the idea of a building (e).

The case of *Powell v. Farmer*, decided on the same day as *Powell v. Boraston*, was decided in accordance with the true effect of *Watson v. Cotton*, as explained in *Powell v. Boraston*.

In *Powell v. Farmer* the occupier was tenant of land on which there was no building at the time when the occupier first took the same of his landlord, but the occupier had erected on the land at his own expense a wooden structure with boarded sides and a thatched roof, and supported by wooded posts let into the ground. The entrance to this structure was by a door fastened by a padlock; and it was used by the occupier for storing potatoes and other things connected with his business as a market gardener, for the purposes of which business he rented the land. The revising barrister found this shed to be a “building” within the Act, and the court, following *Watson v. Cotton*, did not see sufficient in the description he had given to authorize them to reverse his decision. The case also found that the occupier had erected in like

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(e) *Powell v. Boraston* (1865), 18 C. B. (N.S.) 175.

manner on the same land a pig-stye with a slated roof, but in other respects similar to the structure before mentioned. The flooring of the pig-stye was of cinders, laid on the ground to keep it dry. The revising barrister found that this was a "building" within the Act, but the court said it was not necessary to decide whether they did or did not see sufficient in the description given to authorize them to assent to or dissent from this decision, the question as to this pig-stye being only raised in case the shed was found insufficient, and the court added that they were by no means prepared to assent to the revising barrister's opinion on this point without further discussion (*f*).

In *Morish v. Harris*, decided in the same year, the building was of stone, with four walls and a roof, and having a door which was kept locked. Guano and other manures were kept in the building, to be used for the purposes of the land. The building was full. The court held that the subject of occupation as described was a "building" within the Act (*g*).

On the same day were heard the following cases, in which the subjects of occupation were described as follows:—

In *Gillham v. Harris*, the subject of occupation was land used for pasturing a cow and other cattle, with a stone building, roofed, upon it, used for milking the cow in and for keeping hay. The building had three sides, was open in front, and had a loft over, which was not used except for fowls to roost in. The occupier was a dairyman.

In *Mason v. Harris*, the building was of stone with a roof, and was used as a linhay, open to the field. There was a crib in it. One side of the linhay was prolonged, and formed the back of a large tank, holding from sixty to eighty hogsheads of water. The roof of the tank was lower than that of the linhay. The water flowed from the roof of the linhay into the tank. There was an internal communication between the linhay and the tank. The water was used to water the cattle which fed upon the land.

In *Adams v. Harris* and *Berry v. Harris*, the building was of stone, with a roof, and had three walls, and was open in front. There was a loft over the building for the purpose of keeping hay. The land was used for depasturing the occupier's cattle, and the lower part of the building was useful as affording shade and shelter to the cattle.

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(*f*) *Powell v. Farmer* (1865), 18 C. B. (N.S.) 169.

(*g*) *Morish v. Harris* (1865), L. R. 1 C. P. 155.

In *Prout v. Harris* and *Hodge v. Harris*, the only difference was that the land was used for depasturing the cattle of people other than the respective occupiers in each case.

In all these cases the court sent the case back to the revising barrister, to state whether the land with the building was of more real value to let than it would be without the building. And in answering this question, the court directed the revising barrister that all notions of value for a vote were to be excluded.

The revising barrister then found that in *Gilham's case* the building was worth about ten shillings a year to the tenant. In *Mason's case* the linhay was worth to the tenant about five shillings a year. The value of the tank was not proved, but it was worth something. In each of the other cases the building was worth about five shillings a year to the tenant.

Thereupon the court held that the several occupiers were entitled to be registered in respect thereof, because the buildings were of a permanent nature, useful for the occupation of the land on which they were placed, and added *bonâ fide* to its letting value, although in a small degree. These cases are all reported together with *Morish v. Harris* above cited.

Supposing a building may be taken, together with land, in the same borough, to constitute one entire ten pounds occupation qualification as now existing, but only under the same circumstances under which a building and land, in the same borough, might be taken together, to constitute one entire ten pounds occupation qualification as it existed under the Reform Act, 1832, then there would be no necessity that the land should be locally contiguous to the building.

This was decided under the Reform Act, 1832, in the case of *Collins v. Thomas* in 1852.

In that case the building was a dwelling-house in Chance Street, in the borough of Tewkesbury. The occupier, who occupied as tenant, was tenant under the same landlord of a piece of garden ground, also within the borough of Tewkesbury, which did not immediately adjoin the house, but the house and garden were both taken of the same landlord, at the same time and at one entire rent. The garden ground lay at the back of the house, not more than 40 yards distant from it in a direct line; but between the house and the garden there was some waste land, and a row of buildings not in the occupation of the occupier of the house and garden. The house and the piece of garden ground were together worth more than ten pounds per annum; but the house alone was



not of the annual value of ten pounds. The revising barrister decided in favour of the occupier, and the court affirmed his decision, saying there could be no doubt in the case (*h*).

And lastly, supposing a building and land, situate in the same borough, may be taken together to constitute one entire qualification, but only under the same circumstances under which they might be taken together to constitute one entire qualification under the Reform Act, 1832, then it will be necessary that where they are occupied by the occupier as tenant, the occupier should occupy both as tenant to the same landlord.

But it was decided, under the Reform Act, 1832, that, provided that the tenancy continued during the whole of the qualifying period to be by virtue of an original taking from the same landlord, a severance of the reversion during the qualifying period would not destroy the qualification.

This was settled by the case of *Smerdon v. Tucker*, in 1859. In that case Smerdon took and occupied, as tenant from year to year, five closes of land and a barn, with other buildings, all of which were owned by one and the same landlord at the time the tenant entered into possession. During the qualifying period the landlord assigned the reversion in the barn, together with the yard, curtilage, and all the other buildings adjacent thereto, to another person jointly with himself, the rent to be apportioned so long as the tenant continued to occupy the premises. The transaction was a *bonâ fide* sale for adequate value. The consideration was really paid; but no notice of the conveyance was ever given to Smerdon, and the object of the arrangement was admitted to be by severance of the reversion to destroy the vote. Two other similar cases were consolidated with this case. The court held that the requirements of the statute were substantially fulfilled by the original taking being from one and the same landlord, and that Smerdon was entitled to be registered (*i*).

There is no necessity that the qualifying tenement should be actually the same premises, neither more nor less nor altogether different, throughout the whole of the qualifying period; provided that throughout the whole of the qualifying period the premises in fact occupied at any one part of that period are of the proper kind and value, and that there is no gap or intervening portion of time during which no premises at all are occupied by the person claiming to be entitled to be registered.

(*h*) *Collins v. Thomas* (1852), 12 C. B. 639.

(*i*) *Smerdon v. Tucker* (1859), 7 C. B. (N.S.) 37.

But where the same tenement is not occupied throughout the whole of the qualifying period, there is a slight difference in the conditions as to rating and payment of rates (*k*).

With regard to successive occupation in a divided borough it is specially enacted that "the occupation in immediate succession of different premises, situate within a parliamentary borough, shall for the purpose of qualifying a person for the purpose of voting, in any division of such borough in respect of occupation (otherwise than as a lodger) have the same effect as if all such premises were situate in that division of the borough in which the premises occupied by such person at the end of the period of qualification are situate" (*l*).

The tenement must, however, in all cases, whether the same premises or not, be within the borough. This is not altogether so simple a matter to determine as it seems. Thus, in *Palmer v. Allen*, one, William Green, claimed to be registered in respect of a house and land in a place called Far Forest, which, before the passing of the Boundary Act, 1832 (*m*), formed part of the borough of Bewdley, but was so detached therefrom that, if included therein, the boundary established by that Act would not be continuous, and it was held by WILDE, C.J., and MAULE, J., that Far Forest did before the passing of the Boundary Act, 1832, form part of the borough of Bewdley "for the purpose of the election of members to serve in Parliament" within the meaning of section 37 of that Act, but by CRESSWELL and VAUGHAN WILLIAMS, JJ., that it did not (*n*). A right to vote in respect of a qualification within an isolated part of a parish at parliamentary elections for a borough comprising that part, is not affected by an order of the Local Government Board made under the Divided Parishes and Poor Law Amendment Act, 1876 (*o*), amalgamating the part with a parish beyond the limits of such borough (*p*).

(2) **Value.**—The second element of a ten pounds occupation qualification is the element of value.

The land or tenement must by the terms of section 5 of the Representation of the People Act, 1884 (*q*), be "of a clear yearly value of not less than ten pounds."

(*k*) See *post*, p. 186. See also Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 28; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 26.

(*l*) Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), s. 10.

(*m*) 2 & 3 Will. 4, c. 64.

(*n*) *Palmer v. Allen* (1849), 6 C. B. 51. The point remained unsettled until Bewdley was disfranchised by the Redistribution of Seats Act, 1885. Saint, R. C. 127 *n*.

(*p*) *Foster v. Medwin* (1879), 5 C. P. D. 87.

(*o*) 39 & 40 Vict. c. 61.

(*q*) 48 & 49 Vict. c. 3.

It has been decided, with reference to the ten pounds occupation qualification as it existed under the Reform Act, 1832, and the decision holds with regard to the ten pounds occupation qualification as at present constituted, that what is the clear yearly value of the premises must be a question of fact, to be determined by the revising barrister upon the evidence before him (*r*), and unless the court is satisfied from the facts stated by the revising barrister that his decision must be wrong, as absolutely opposed to the facts so stated, they will not reverse his decision.

In order to arrive at the clear yearly value, if the tenement is in the occupation of the claimant as owner, the principles already discussed with reference to ownership qualifications in counties are applicable (*s*). But if the tenement is in the occupation of the claimant as tenant, the mere fact that he pays ten pounds a year rent for it is not by itself conclusive of the value. Again, in many cases, no rent of any real value may be paid at all. But the general principle is that the clear yearly value of the tenement is what it would be worth to anyone wanting to occupy it and would generally fetch over and above the public burthens (*i.e.*, tenant's rates and taxes) cast by law upon the tenant. If, therefore, a rent is actually paid, it is of assistance in arriving at the clear yearly value to the tenant to this extent, first by inquiring if such rent is paid clear of tenant's rates and taxes; and secondly, by inquiring whether the residue represents the fair letting value, after making such deductions. The amount, therefore, actually received as clear profit by the landlord is immaterial. The principle is illustrated by the following cases:—

In *Coogan v. Luckett*, decided in 1846, it appeared that the occupier paid a rent of 12*l.* 7*s.* per annum, but the landlord paid all the rates and taxes assessed upon the tenement. The rates commonly known as tenant's rates, payable in the parish, amounted to a sum of 5*s.* 11*d.* in the pound per annum, which would amount to a sum of 2*l.* 7*s.* 4*d.* if the tenement in question were rated to the tenant. There was no evidence as to what the tenement might reasonably be expected to let for free of all usual tenant's rates and taxes beyond the above facts. The revising barrister held that the tenement was not of the clear yearly value of ten pounds. The court saw no reason upon the case as stated to reverse his decision (*t*).

In *Colvill v. Wood*, decided in the same year, the occupier paid

(*r*) TINDAL, C.J., in *Coogan v. Luckett* (1846), 2 C. B. p. 185.

(*s*) *Ante*, p. 55.

(*t*) *Coogan v. Luckett* (1846), 2 C. B. 182.

a yearly rent of ten pounds, exclusive of rates and taxes. There was no special agreement between him and his landlord as to repairs and insurance. It further appeared that ten pounds was the fair rent of the premises. It was objected that the premises were not of sufficient value, on the ground that the average annual expense of landlord's repairs and insurance ought to be deducted from the amount of the rent. The revising barrister was of opinion that such deduction ought not to be made, and that the premises were of sufficient value. The court affirmed his decision (*u*).

**(3) Occupation.**—The third element of a ten pounds occupation qualification is the element of occupation.

The period of occupation is, by the Reform Act, 1832 (*x*), as amended by the Parliamentary and Municipal Registration Act, 1878, (*y*), required to be twelve calendar months next previous to the fifteenth day of July in the year in which the occupier is registered.

The term "occupation" signifies in law not only an exclusive, that is to say a lawfully exclusive, possession, but also the actual exercise in fact of the rights of a person entitled in law to exclusive possession.

For the present purpose the element of occupation is confined to the actual exercise in fact of the rights of a person lawfully entitled to exclusive possession.

The question of exclusive possession is hereinafter considered as part of the element of estate.

Occupation, as a matter of fact, may be said to mean the actual user in fact of the tenement or subject-matter of occupation by the owner or tenant for the purposes of a dwelling-house, or for the purposes of his trade, business or profession.

So a "house" is occupied by the owner or tenant if his servant lives in it (*z*), or if he furnishes it and keeps it ready for habitation whenever he pleases to go there, although he may not reside in it one day in a year (*a*); or if the owner or tenant keep furniture or goods in part of it, and use the other part as a sale-room (*b*). "It is not necessary that in order to make a man an occupier he should actually sleep or take his meals in a house, or that his family should actually dwell in the whole house; but the law considers

(*u*) *Colvill v. Wood* (1846), 2 C. B. 210.

(*x*) 2 & 3 Will. 4, c. 45.

(*y*) 41 & 42 Vict. c. 26, s. 7.

(*z*) *Nunn v. Denton* (1844), 7 M. & G. 66.

(*a*) *Per LUSH, J.*, in *Reg. v. St. Pancras* (1877), 2 Q. B. D. p. 588.

(*b*) *Daniel v. Coulsting* (1845), 7 M. & G. 122.



him for this purpose an occupier, if he hold the whole and by himself or his family occupy a part" (c).

A "warehouse" is occupied by the owner or tenant if he keep furniture or goods therein; a "counting-house" is occupied if the owner or tenant use it by himself or by his clerks for the purposes of his business during business hours, although it may be locked up and left empty at night (d); and so of a "shop"; any "other building" used for business purposes is occupied by the fact of such user, e.g., a shed on a wharf by keeping therein the barrows, shovels, and coal baskets of the wharfinger (e); wheelwright's and coachmaker's premises, by keeping the materials and tools of his trade therein, and by using them as stands for gigs and carriages of his own construction (f): a market gardener's shed, by storing potatoes therein (g); a manure shed, by a farmer keeping manure therein (h).

(4) **Estate.**—The fourth and last element of a ten pounds occupation qualification is the element of estate.

The occupier must occupy as owner or tenant.

It is true that section 5 of the Representation of the People Act, 1884, says merely "every man occupying any land or tenement, etc.," "shall be entitled to be registered, etc.," without using the words "as owner or tenant," which are used in the Reform Act, 1832, in the enactment first creating a ten pounds occupation qualification, and which are also used in section 3 of the Representation of the People Act, 1867, in creating the household qualification; and it is also true that the meaning of the term "as tenant" has been extended by section 3 of the Representation of the People Act, 1884, to include persons who occupy a dwelling-house by virtue of any office, service, or employment.

But then section 5 of the last-mentioned Act, in dealing with a ten pounds occupation qualification, did not create an entirely *new kind* of occupation qualification, but merely assimilated the occupation qualifications *already existing* in counties and boroughs in point of the description and value of the subject-matter of occupation, apparently leaving all their other incidents as they were; and in both counties and boroughs under the previous enactments in the Reform Act, 1832, and the Representation of

(c) LITTLEDALE, J., 9 B. & C. p. 185; Lord DENMAN, C.J., 5 B. & Ad. 226; 9 Ad. & Ell., 679.

(d) *Downing v. Luckett* (1847), 5 C. B. 40; *Piercy v. Muelvan* (1870), L. R. 5 C. P. 252.

(e) *Watson v. Cotton* (1847), 5 C. B. 51. (f) *Jolliffe v. Rice* (1848), 6 C. B. 1.

(g) *Powell v. Farmer* (1865), 18 C. B. (N.S.) 169.

(h) *Morish v. Harris* (1865), L. R. 1 C. P. 155.

the People Act, 1867, it was expressly required that the occupier should occupy the subject-matter of occupation "either as owner or as tenant."

And this view is confirmed by the fact that the words "as owner or tenant" occur in the definitions of a ten pounds occupation qualification both in a county and in a borough given in the forms of precepts of the clerk of the peace and town clerk respectively to the overseers as prescribed by the Registration Order, 1895 (i).

Besides, at common law the terms "occupier," "occupy," and "occupation" are terms of art, and refer to such occupation as by law may give a right to the possession of land, as, for instance, "if a man letteth lands to another for term of life of another man, and if the lessee in that case dieth living *cestui que vie* (that is, he for whose life the lease was made), he that first entreth shall hold the lands during that other man's life, and is in law called an *occupant*, because his title is by his first occupation (k).

The word "owner" here made use of in describing the necessary element of estate is scarcely a term of art, but is used as the only comprehensive general word to express a person having an estate of freehold, either legal or equitable, in the subject-matter of occupation as opposed to a person having a less estate. And the word "tenant" appears to be used not strictly as a term of art, for in the legal signification of the word it would include all who are vulgarly called the owners of lands or tenements, but it appears to be meant to include all persons having an estate, either legal or equitable, of less than freehold, including a chattel interest, in the subject-matter of occupation. But persons having no estate as above mentioned in the subject-matter of occupation do not occupy either "as owner" or "as tenant."

The question whether the party occupies in right of an estate in the subject-matter of the occupation or not is an inference of law deducible from the facts proved. The facts, so far as stated by the revising barrister for the opinion of the court, may, however, not be compatible with either deduction. In such a case the court does not interfere with the deduction drawn by the revising barrister.

In the case of *Bridgwater v. Durant*, decided in 1861, the facts

(i) Schedule 2 Precept, paragraph 7, and Schedule 3 Precept, paragraph 5. WRIGHT, J., however, in *Hall v. Metcalfe*, [1892] 1 Q. B. on p. 213, is reported as suggesting that even in the Reform Act, 1832, the words were only used in order to give the occupation franchise even where the occupation was as owner. But see the judgment of the Court of Common Pleas, *per* ERLE, C.J., in *Henrette v. Booth* (1861), 11 C. B. (N.S.) at p. 41.

(k) Co. Litt. 41b. See 2 Bl. Comm. 258.

were not incompatible with the existence of a tenancy at will, but the decision of the revising barrister was not disturbed.

In that case the facts were that Robert Bridgwater occupied a house as lay-clerk at Windsor. He was appointed by the dean and canons. The freehold of the house was in the dean and canons, and a certain number of like houses also belonged to them and were occupied by lay-clerks. There were, however, more lay-clerks than houses; and the juniors received twenty pounds a year more salary until a house became vacant. The salary was then reduced by that amount. The lay-clerk might then take the house but was not obliged to reside. He could perform all the duties of his office without residing. It was held that there was no evidence to show that Bridgwater occupied either as owner or tenant, and that he had not therefore established his claim to be registered (*l*). It is not necessary, however, for a person who occupies as tenant to prove his landlord's title; thus where one or two trustees in whom the legal estate in a certain building and land was vested by virtue of a deed of settlement, purported by an agreement to let the premises from year to year at an annual rent, and the tenants were in possession under the agreement, it was held to be unnecessary for the tenants upon objection made to prove that their lessor had a right to let the premises to them (*m*).

The cases decided with reference to the meaning of the words "as owner or tenant" show, first, that if the occupier has an estate in the subject-matter of the occupation, be it only of the least kind that is known to the law, as that of a tenant at will, he may be said to occupy as "tenant." Secondly, that if the occupier had no such estate in the subject-matter of the occupation, but is merely a guest, servant, licensee, object of charity, or lodger, he cannot be said to occupy either "as owner" or "as tenant"; and (by way of corollary to the second point) thirdly, that an occupier does not cease to occupy the whole of the premises as owner or tenant because a part may be used by his guests, licensees, or lodgers, for such persons do not themselves occupy either as owners or tenants.

The case of *Rogers v. Harvey*, decided in 1858, is an authority for the proposition that an occupier, even if only a tenant at will, may be said to occupy "as tenant" within the meaning of section 27 of the Reform Act, 1832, and, therefore, has a sufficient estate for the purposes of a ten pounds occupation qualification.

In the case of *Rogers v. Harvey*, Job, Jesse, and Joshua Harvey

(*l*) *Bridgwater v. Durant* (1868), 11 C. B. (N.S.) 7.

(*m*) *Foulsh v. Trecoor* (1879), 1 Coll. 82.

claimed to be registered as voters for the town and county of the town of Haverfordwest in respect of their joint occupation of a house and mills of sufficient value within the town. The father of the claimants was assignee of a lease of the premises in question for a term of ninety-nine years, terminable on two lives, at a yearly rent of 350*l.*, payable quarterly, and he carried on there the business of a paper maker. During the currency of the term the claimants entered into partnership with their father in his business, and jointly occupied with him the premises in question, each of them paying to him a fourth share of the rent, but there was no deed or writing entered into as to the terms of the partnership, and no alteration of the terms of the tenancy subsisting between the father and the owner in fee of the premises, the father remaining solely responsible to the landlord for the whole of the rent. It was held that the introduction by the father of the three claimants into partnership with him, and into the joint occupation of the premises, the rent being paid out of the partnership funds, constituted them at the least tenants at will to him of undivided shares in the premises, and that all the partners (the value being sufficient) were entitled to be registered as tenants within section 27 of the Reform Act, 1832 (*n*).

With this case may be carefully compared the Irish case of *Holland v. Chambers*, decided in 1892. There the Roman Catholic bishop of a diocese along with his administrator and two curates occupied a parochial house during the qualifying period, and were also trustees of the house under a fee farm grant in trust for the parish. And it was held that they were entitled to be registered as voters and to vote, because even before the Judicature Act a court of law would, from the fact of their actual occupation, have implied a tenancy at will between them and trustees who were strangers, and since that Act they ought to be deemed to have been in possession as equitable owners so long as they should hold their respective offices (*o*).

Another Irish case of *Holland v. Chambers* (*John Doherty's case*) decided in the following year, 1893, is also instructive. In that case, the tenant of a certain house died intestate, and whilst his tenancy was still outstanding, his father, who was his sole next-of-kin and had been residing in the house, continued in occupation during the whole of the qualifying year and paid the rent, but without taking out letters of administration. And it was

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(*n*) *Rogers v. Harrey* (1858), 5 C. B. (N.S.) 3.

(*o*) *Holland v. Chambers* (1892), 32 L. R. Ir. 156.



held, nevertheless, that his occupation was an occupation as tenant (*p*).

The case of *Luckett v. Bright*, decided in 1846, illustrates the distinction between persons who occupy as tenants within section 27 of the Reform Act, 1832 (*q*), and persons who are merely allowed to use a house or other building within that section for strictly limited objects, and who have no estate therein.

In that case it appeared that John Bright was one of six joint lessees of a house, No. 67 Fleet Street, under a demise for a period of three years, in consideration of a premium of 150*l.*, and the yearly rent of 200*l.* The whole of the premises were used for the purposes of a voluntary association of persons styling themselves "The National Anti-Corn Law League," and the rent of the premises was paid out of the subscriptions of the members, all the co-lessees being also members, with many others. The members all frequented the house for the purposes of the association, and the co-lessees not only used it for that purpose, but also to transact their own affairs there. If the clear yearly value of the premises were to have been divided by the whole number of members as joint occupiers, the interest of each member would have been insufficient to confer a vote. It was held that the premises were occupied by the co-lessees as tenants within the meaning of section 27 of the Reform Act, 1832, and that the same were not jointly occupied by them and the other members of the association as tenants, and that, therefore, John Bright was entitled to be retained on the list of voters in respect of such qualification (*r*).

In the case of premises occupied in succession, it does not matter that one set of premises may have been occupied by the claimant as joint occupier, but the other set subsequently occupied were occupied by the claimant as sole occupier, provided that the premises jointly occupied were of sufficient value, and the occupation was all along, whether joint or several, an occupation as owner or tenant. Thus, where a claimant was at the beginning of the qualifying period a joint occupier as tenant of premises of sufficient value, but afterwards, during the qualifying period, moved into other premises as sole tenant, it was held that he was entitled to be registered for the latter (*s*).

With reference to the second point above mentioned (*ante*,

(*p*) *Holland v. Chambers* (*John Doherty's case*), [1891] 2 I. R. 285. See Irish cases cited *post*, pp. 223-226.

(*q*) 2 & 3 Will. 4, c. 45.

(*r*) *Luckett v. Bright* (1846), 2 C. B. 193.

(*s*) *McCrabb v. Chambers* (1887), 22 L. R. Ir. 436.

p. 155), viz., that if the occupier has no estate in the subject-matter of the occupation, he cannot be said to occupy "as owner" or "as tenant :"—

*First, as to lodgers.* The distinction between a lodger and a tenant may be said to consist essentially in this, that the relation between landlord and lodger is a relation created by a purely personal contract, the landlord retains the whole estate in, together with a general power of control and dominion over, the premises, the lodger having merely a right to the use of them according to the terms of the contract; whereas the relation between the landlord and lessee for a term is created by a contract which concerns an interest in the thing demised, the tenant has a right to the exclusive occupation of the thing demised, such as would under the old law have entitled him to maintain an action of trespass even against his landlord. And it is to be observed that the distinction is still material, for although the lodger has now his franchise he has it upon different terms to the tenant (*t*). In all cases the question is ultimately reducible to one of fact, although the deduction from the facts proved as to the relation which exists between the parties is a question of law.

In *Pitts v. Smedley*, decided in 1845, Samuel Pitts rented the second and third floors of a house at a weekly rent of 26*l*. He had the exclusive control over these rooms and held the keys, and held also a latch-key to the street door. The owner of the house, to whom Pitts paid his rent, was himself in the occupation of the first floor of the same house. The street door had another lock to it, besides the lock to which Pitts had a latch-key, and the key of this other lock was not in the possession of Pitts. It was held that Pitts did not occupy the second and third floors as owner or tenant but was strictly an inmate or lodger, and therefore not entitled to be registered as a voter in respect of such occupation (*u*).

In *Score v. Huggett*, decided in the same year, George Bedford occupied two rooms, for which he paid 20*l*. 16*s*. a year rent, on the second floor of a house. He had the keys of these two rooms, and the exclusive right of access thereto, and had also a key of the street door. The landlord did not reside in or occupy any part of the house. It was held that Bedford was entitled to be retained on the list of voters (*w*).

In *Wansey v. Perkins (Hill's Case)*, also decided in the same

(*t*) *Post*, p. 226.

(*u*) *Pitts v. Smedley* (1845), 7 M. & G. 85.

(*w*) *Score v. Huggett* (1845), 7 M. & G. 95.

year, James Hill occupied the whole of the second floor of a house. The floor consisted of three rooms, which were exclusively occupied by the claimant as a dwelling place and printing office; and the claimant paid rent for it to one Knight, who occupied the shop and first floor in the house, and resided therein. Both Knight and Hill had keys to the street door of the house. It was held that Hill was not entitled to be registered as a voter, on the ground that he was in the condition of a lodger or inmate (*x*).

In *Toms v. Luckett*, decided in 1847, Moses Toms dwelt on the first floor of a house at a rent of 5*s.* 6*d.* per week, and occupied the whole of that floor. His landlord occupied a shop and parlour on the ground floor in the same house, but did not sleep there; and other persons occupied distinct apartments in the house. The landlord, Toms, and the other inmates had each respectively a key of the outer door, and they all locked and unlocked that door when and as they pleased. It was held that Toms was entitled to be registered, on the ground that it did not appear from the facts that the landlord had, or might be inferred to have, retained the general superintendence and control of the house in his character as master of the house, so as to reduce the occupation of Toms from that of tenant to that of a mere inmate or lodger (*y*).

In *Downing v. Luckett*, decided in 1847, there was no question as to the occupier being a lodger, but the argument was that there was evidence to show that the landlord retained such a control and dominion over the premises as to reduce the nature of the occupation from an independent occupation to an occupation analogous to that of a mere inmate in the premises of the landlord. The case, therefore, is decided on the same principle.

The facts in that case were that Henry Bourne Downing occupied a counting-house at a rent of twenty pounds a year. Six other parties, besides the landlord, respectively occupied counting-houses in the same house. There was but one outer entrance to the house, kept open during the day, but closed at night by one of the landlord's clerks, who resided in the upper part of the house with his family, and who kept the keys. The landlord allowed that Downing had a right to be admitted at any hour of the night. The landlord's clerk was required by him to reside there for the protection of the premises and the accommodation of those who occupied counting-houses there. It was held that the landlord retained nothing of his interest in Downing's counting-house, but

(*x*) *Wainsey v. Perkins (Hill's Case)* (1845), 7 M. & G. 151.

(*y*) *Toms v. Luckett* (1847), 5 C. B. 23.

that Downing occupied it as tenant, and was entitled to be registered in respect of such occupation (*z*).

It follows from what has been already said that, although, as also already said, there is no necessity that the qualifying tenement should be actually the same premises throughout the whole of the qualifying period, nevertheless during the whole of the qualifying period the occupier must occupy as owner or tenant. Occupation partly as a lodger and partly as a tenant is not sufficient. This point has been raised and decided in Scotland, but not in England.

In *Falconer v. Lessels*, decided in 1890, John Lessels had occupied lodgings of the annual value of 10*l.*, unfurnished, for eight months of the qualifying period, and then moved into another house as tenant and remained there for the rest of the qualifying period as tenant. But it was held that he was not entitled to be registered as a voter or to vote in respect of his occupation of the house into which he had moved as tenant, notwithstanding his previous occupancy of the other premises as a lodger (*a*).

*Secondly*, with regard to persons who occupy merely as objects of charity, the objection is not the personal objection that they are in the receipt of relief or other alms, which is referred to more fully hereinafter, although that point may arise for discussion, but that their individual occupation is not the occupation of persons having as individuals an estate in the subject-matter of the occupation as owner or tenant (*b*). This appears from the following cases decided under this section.

In *Heath v. Haynes*, decided in 1857, it appeared that Jesse Boddington occupied two rooms in the Earl of Leicester's Hospital in the borough of Warwick as a member of a corporation called "The Master and Brethren of the Hospital of Robert, Earl of Leicester," founded under Act of Parliament, in the reign of Queen Elizabeth, and regulated by the rules and ordinances laid down by the founder as altered by a subsequent private Act. The object of the institution was charity, and the members of the body corporate were appointed for life by the heir of the founder,

(*z*) *Downing v. Lockett* (1847), 5 C. B. 40.

(*a*) *Falconer v. Lessels* (1890), 18 Ct. Sess. Cas. 4th ser. 351.

(*b*) Compare the decisions in *Simpson v. Wilkinson* (1844), 7 M. & G. 50; *Roberts v. Percival* (1864), 18 C. B. (N.S.) 36, as to equitable estates of freehold qualifying county voters, *ante*, pp. 44, 45. And see also *Fraser v. Bodenhall* (1869), L. R. 4 C. P. 529; *Durant v. Kennett* (1869), L. R. 5 C. P. 262, as to inhabitant occupiers as owners, *post*, pp. 204, 205.



subject to the observance of the rules. The property belonging to the charity was managed by the members, and each was allotted by the master a set of rooms, over which he had the exclusive control. It was held that the individual members of the corporation did not occupy as owners within the meaning of section 27 of the Reform Act, 1832, the ownership of the property being *ex concessis* in the corporation aggregate; nor did they occupy as tenants, there being nothing in the circumstances under which their occupation arose which created either expressly or by implication the legal relation of landlord and tenant between the individual members and the corporation aggregate; and, therefore, that Boddington was not entitled to be registered (c).

In *Heartley v. Bankes*, decided in 1858, the case was that Andrew Heartley and five others occupied houses as Military Knights of Windsor. These knights are objects of the royal charity, and are appointed during good behaviour by the Crown, and have lodgings assigned to them, the houses in this case being so assigned to Heartley and the others. The lodgings and the other benefits which the knights receive are provided out of the profits of lands given by Henry VIII. to the Deans and Canons of Windsor and their successors for the maintenance of these poor knights, and the charity is administered under rules made by a statute of Elizabeth. It was not contended that the knights occupied as tenants, but it was argued that they occupied as owners by virtue of the lodgings being annexed to a freehold office granted by the Crown. The court held that whether the interest of the knights in the benefits of the charity were a freehold interest or not, there was no such estate or interest in these houses as could properly be deemed an ownership. The legal estate was plainly in the Dean and Canons of Windsor; and though they might be bound to allow the knights to occupy these houses, yet it appeared that the dean and canons had power and authority to impose such restrictions on the enjoyment as to divest the occupation of the character of ownership. The knights were not permitted to let their houses, nor even to receive guests therein, except with the assent and sanction of the dean and canons. The knights were, therefore, not entitled to be registered (d).

*Thirdly*, a person may occupy by mere permission. One who occupies by permission of the freeholder or any other having a

(c) *Heath v. Haynes* (1857), 3 C. B. (N.S.) 389.

(d) *Heartley v. Bankes* (1858), 5 C. B. (N.S.) 40.

sufficient estate in the subject-matter of occupation may be regarded under certain circumstances as a tenant at will, and in such case may be said to occupy "as tenant." But one who occupies by permission of a person having any less interest than an estate in the subject-matter of occupation, obviously can never occupy even "as tenant," for "*nemo dat quod non habet*."

In *Powell v. Boraston*, decided in 1865, where a farmer occupied land of sufficient value within the borough as tenant, but there was no building on the land at the time of the demise, nor for many years after, so that it did not confer a vote, and the farmer, without permission of his landlord, allowed a stranger, without writing, to put up a shed upon the land, and occupied the shed by keeping agricultural implements therein, it was held that, even supposing the shed was a sufficient building within the meaning of the Act (c), the farmer did not occupy the shed as tenant to the owner of the land, because it was not parcel of the demise under which he held from him (f).

But in *Powell v. Farmer*, decided on the same day, where a market gardener occupied land for the purposes of his business as a market gardener under a demise, and there was no building on the land at the time when he first took the same, but during his tenancy he erected on the land at his own expense a wooden structure with boarded sides and a thatched roof, and supported by wooden posts let into the ground, which structure he used for the purposes of his business as a market gardener, it was held that since there was nothing in the case as stated to prevent the application of the maxim "*quidquid plantatur solo, solo cedit*" to this structure, the decision of the revising barrister that the market gardener occupied the structure "as tenant" within the meaning of the section ought not to be disturbed (g).

*Fourthly*, as to servants. Where a servant is in the occupation of a house which is the property of his employer, but his employer does not personally occupy it, he may be either merely permitted or actually required to occupy. It is obvious that he cannot occupy as owner.

If he is merely permitted to occupy, his case will be governed by the principles above discussed. If he is actually required to occupy in the performance of his contract to serve he cannot be said to occupy as tenant. The distinction appears by the cases of

(c) *Ante*, p. 146.

(f) *Powell v. Boraston* (1865), 18 C. B. (N.S.) 175.

(g) *Powell v. Farmer* (1865), 18 C. B. (N.S.) 169.

*Hughes v. The Overseers of Chatham, Dobson v. Jones, and Clarke v. The Overseers of Bury St. Edmunds.*

In *Burton's case, Hughes v. The Overseers of Chatham*, decided in 1843, it appeared that James Burton was a master ropemaker in Chatham Dockyard, and as such occupied a house there belonging to the Lords Commissioners of the Admiralty. He paid no rent in money for it, but had it in part remuneration for his services, for the exclusive occupation of himself and his family, and no part of it was used for public purposes. If he had not been allowed the house, he would have been allowed lodging money in addition to his salary. It was held, following the distinction drawn in settlement cases under the Poor Relief Act, 1662 (*h*), between the case of a servant permitted to occupy a tenement of his master's by way of payment for his services, and the case of a servant required to occupy in the performance of his contract to serve, that James Burton occupied the house as tenant within the meaning of section 27 of the Reform Act, 1832, and was entitled to be retained on the list of voters in respect of such qualification (*i*).

This decision was held to cover the cases of Parker, a lieutenant quartermaster of marines, and six others; Brook, a clerk of the works in the engine department, and two others; Smith, a barrack master, and two others, there being no substantial difference in the facts.

In the case of *Dobson v. Jones*, decided in 1844, the facts were that Sir Richard Dobson occupied a house at the Infirmary, Greenwich Hospital, as the surgeon of the hospital, and the house belonged to the Lords Commissioners of the Admiralty. He took possession of it upon his appointment as surgeon, and by the regulations applicable to his office he would have been allowed lodging money had he not been provided with a residence within the hospital. By the regulations he was to inhabit the apartments assigned to him, and not to exchange or alter them without the express permission of the Lords Commissioners. It was held that he was required to occupy the house with a view to the more efficient performance of the duties of his office as a Government servant, and did not therefore occupy as tenant within the meaning of section 27 of the Reform Act, 1832; and also that he could not be considered to occupy as owner, the Lords Commissioners of the Admiralty being in the proper legal sense of the word owners of the house; and therefore that he was not entitled to be retained on

(*h*) 14 Car. 2, c. 12.

(*i*) *Hughes v. The Overseers of Chatham (Burton's Case)* (1843), 5 M. & G. 54.

the list of voters in respect of his occupation of the house in question (*j*).

In *Clark v. The Overseers of Bury St. Edmunds*, decided in 1856, James William Clark occupied a house built for the occupation of the hall-keeper of the Guildhall, Bury St. Edmunds. The Guildhall and the house in question formed part of certain charity trust estates, formerly called the Guildhall Feoffment, vested in trustees or feoffees. The house was an entirely separate building from the hall, and Clark had the exclusive control of the house, the feoffees reserving only a small room as an office under the same roof, but having no internal communication with the house, and entered by a separate outer door. Clark paid no money rent for the said house; his occupation being considered as a part payment for his services. It was necessary for the due discharge of his duties as hall-keeper that he should reside in the house, which was built for that purpose. Held, that Clark was required to occupy and did occupy as a servant, and not as a tenant within section 27 of the Reform Act, 1832, and was therefore not entitled to be registered as a voter (*k*).

The third leading point above mentioned, viz., that the occupier does not cease to occupy the whole of the premises as owner or tenant because a part may be used by his guests, licensees, or lodgers, follows as a corollary upon the second, viz., that such persons do not occupy as owners or tenants, and was decided in 1869 in the case of *Smith v. Lancaster*.

In that case it was held that a barrister who was tenant to the Benchers of the Inner Temple of an entire set of chambers, consisting of three rooms, and used only one of them himself for transacting the business that came to him in the exercise of his profession, whilst he let out each of the other rooms to two other barristers respectively for the like purposes upon agreements determinable at a quarter's notice, did not cease to be the occupier as tenant of the whole of the premises, because he retained the mastership and general control of the whole (*l*). It makes no difference that part of the premises may be used by the real owner, not by virtue of his ownership but as a lodger to his own tenant. Thus a person occupying a house as tenant under a lease for seven years, took in his lessor as a lodger, and it was held that he was nevertheless entitled to his vote (*m*).

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(*j*) *Dobson v. Jones* (1844), 5 M. & G. 112.

(*k*) *Clark v. The Overseers of Bury St. Edmunds* (1856), 1 C. B. (N.S.) 23.

(*l*) *Smith v. Lancaster* (1869), L. R. 5 C. P. 246.

(*m*) *White v. Pring* (1849), Saint Reg. Cas. 3rd ed. 128.



Any event which by law divests the necessary interest of the occupier in the tenement necessarily determines his right to be registered and to vote in respect of that qualification.

For instance, any alienation of his interest as owner or tenant by act of parties, as by conveyance to another, determines the right of the occupier to be registered in respect of that qualification. And any alienation by operation of law has the same effect.

For instance, in a Scotch case, *Strachan v. Binnie*, decided in 1888, the landlord had obtained a decree of ejection against his tenant, but the decree had not been extracted nor the tenant actually turned out when the tenant's claim to be registered came to be decided. And it was held that he was not entitled to be registered (*n*).

So also in an Irish case of *Holland v. Chambers* (*Devine's case*) decided in 1893, notices to quit which expired within the qualifying period had been served on weekly tenants, and on their holding over proceedings had been taken against them to recover possession, but in some cases before and in others after decree of possession arrangements had been come to for the creation of new tenancies to be deemed to have commenced as from the date of expiration of the old tenancy in each case, each tenant paying off his arrears. It was held, however, that none of the tenants were entitled to be registered (*o*).

Under the Bankruptcy Act, 1883, upon adjudication in bankruptcy all the property of the bankrupt divisible among his creditors, which by section 44 includes every such estate as is required to qualify an occupier to be registered under this section, (*p*) vests immediately in the trustee, or if there is no trustee, in the official receiver, without the necessity of any assignment (*q*). There is no difference in respect of leasehold property, and consequently the old authorities to the effect that a bankrupt occupier as tenant might vote under this section until some act done by his assignees to manifest their acceptance of the term (*r*) are no longer law. Every occupier as tenant upon his adjudication in bankruptcy now ceases to occupy "as tenant" within the meaning of this section, but if in point of fact he still resides in or uses the tenement and pays the rent for it, which is accepted by the landlord, and the official receiver or trustee has done nothing in relation to the term

(*n*) *Strachan v. Binnie* (1888), 15 Ct. Sess. Cas. 308.

(*o*) *Holland v. Chambers* (*Devine's case*), [1894] 2 I. R. 442.

(*p*) 2 & 3 Will. 4, c. 45, s. 27.

(*q*) 46 & 47 Vict. c. 52, ss. 20, 54.

(*r*) *Worcester* (1835), *Carter's case*, K. & O. 241; *Tamton* (1838), *Cockram's case*, Falc. & Fitz. 315.

by payment of rent or otherwise, then the bankrupt may be considered to be in occupation as tenant by estoppel or at will, and to have been such as from the date of the adjudication (*s*).

## 2. CONDITIONS OF REGISTRATION.

(1) **Residence.**—The first of the three conditions above mentioned (*ante*, p. 136) which must be fulfilled by the occupier as owner or tenant of any land or tenement situate within a borough and of the clear yearly value of ten pounds in order to entitle him to be registered as a parliamentary voter for the borough is that he must have resided in or within seven miles of the borough during the six months immediately preceding July 15th in the year in which he is registered.

This condition was one of the conditions imposed as part of the ten pounds occupation qualification under the Reform Act, 1832. Under that Act the period of the residence was to be six calendar months, calculated up to the last day of July, but this date was altered to July 15th by section 7 of the Parliamentary and Municipal Registration Act, 1878 (*t*).

The seven statute miles which are the local limits of the residence are by virtue of section 76 of the Parliamentary Registration Act, 1843, to be measured in a straight line on the horizontal plane from the nearest point of the city or borough or place sharing in the election therewith, in respect of which city, borough, or place the occupier is to be registered, and if there is an Ordnance map of the district the distance may be measured upon it (*u*).

As to what constitutes residence, the authorities above cited (*x*) upon the residence required in cases of reserved rights are equally applicable in the case of the ten pounds occupation qualification.

Shortly put, the law upon the subject comes to this, that in order to say in law that a man resides at any place, he must possess at the least a sleeping apartment at such place, but it is not necessary that he should abide in such place for every minute of the required period, provided that when absent he has both the

(*s*) *Mackay v. McGuire*, [1891] 1 Q. B. 250. This case was decided with reference to a household qualification (see *post*, p. 199), but is of equal authority with reference to a ten pounds occupation qualification.

(*t*) 41 & 42 Vict. c. 26, s. 7.

(*u*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 76, and see *ante*, p. 132.

(*x*) *Whithorn v. Thomas* (1844), 7 M. & G. 1; *Ford v. Hart* (1873), L. R. 9 C. P. 273; *Beal v. Ford* (1877), 3 C. P. D. 73. See *ante*, pp. 133—135.

power to return at any moment of such period without breach of legal obligation and the intention during the whole of his absence to return to such place after a merely temporary absence.

In the case of *Barlow v. Smith*, decided in 1892, a man had a shop at Wigan, where he carried on business all day, but where he only slept on two occasions, during the qualifying period, and on those occasions he slept there on two chairs because there was no proper sleeping accommodation. He lived more than seven miles off, at Southport, and it was held he had not resided at Wigan or within seven miles thereof (*y*).

In the case of *Powell v. Guest*, which was decided in 1864, the occupier was convicted during the qualifying period, of an assault, and was for five out of the required period of six months' residence confined in a gaol situate more than seven statute miles from the borough for which he was registered, and the house usually occupied by him as his residence within the borough was during those five months occupied by his servant on his behalf. The court held that he had not fulfilled the condition as to residence, on the ground that he had not during those five months the lawful power to return to his own house and could not be presumed to have had any intention to return thereto, at least until the expiration of the term of imprisonment to which he had been sentenced, and was therefore not entitled to be registered (*z*).

In *Ford v. Pye*, decided in 1873, a clergyman, being the occupier of a house of sufficient value in the City of Exeter, was absent for one month of the required period of residence under an agreement with another clergyman for an exchange of duties and residences during that time, and, although he kept certain rooms in the house locked for his own convenience, had no intention of returning before the expiration of the time for which he had so agreed to make an exchange of duties. The court held that he had not fulfilled the condition of residence for the required period, and was, therefore, not entitled to be registered (*a*).

But at the present time it is to be observed with reference to the occupation of a house for residential purposes, that most inhabitant occupiers now vote under the third section of the Representation of the People Act, 1867 (*b*), and by the House Occupiers Disqualification Removal Act, 1878 (*c*), a person may be registered under that section notwithstanding that during any

(*y*) *Barlow v. Smith* (1892), 1 Fox & Smith, 293.

(*z*) *Powell v. Guest* (1864), 18 C. B. (N.S.) 72.

(*a*) *Ford v. Pye* (1873), L. R. 9 C. P. 269.

(*b*) 30 & 31 Vict. c. 102.

(*c*) 41 Vict. c. 3.

part of the qualifying period, not exceeding four months in the whole, he shall by letting or otherwise have permitted the qualifying premises to be occupied as a furnished house by some other person.

There is no similar statutory privilege extended to the occupiers of tenements for commercial purposes, and the case therefore remains an authority, at least to that extent.

But the Electoral Disabilities Removal Act, 1891, applies to all ten pound occupiers, and enacts that a person shall not be disqualified from being registered in the parliamentary register of electors for a county or borough in respect of his occupation of any land or tenement by reason only that during part of the qualifying period not exceeding four months at any one time, he has in the performance of any duty arising from or incidental to, any office, service, or employment held or undertaken by him, not resided in or within the required distance from such county or borough (*d*).

**(2) and (3) Rating and payment of Rates.**—The second and third conditions relating to rating and payment of rates and taxes, which must also be fulfilled before the occupier as owner or tenant of any land or tenement situate within a borough, and of the clear yearly value of ten pounds, may be registered as a parliamentary elector for the borough, may be conveniently considered together.

These conditions may be stated as follows:—

*First*, the occupier or some one else must during the twelve months of occupation have been rated to all poor rates made in respect of the land or tenement; and

*Secondly*, all sums due in respect of the same land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the fifth day of January in the year in which the occupier is to be registered, or on account of any assessed taxes due before the said fifth day of January, must have been paid on or before the following twentieth of July.

If both these conditions were to be enforced with absolute strictness occupiers might be disqualified by reason of mistake, neglect, or refusal on the part of the overseers, and in order to avoid such consequences there are by the law three alternative opportunities offered of fulfilling them.

*First*, the strict fulfilment by a proper rating of the proper

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(*d*) Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11), s. 2.



person in respect of the premises, and sufficient payment by or on behalf of the occupier.

*Secondly*, in cases of misnomer or misdescription of the person rated, a *bonâ fide* calling upon the occupier or some one else upon his behalf and liable to pay, for payment, and a *bonâ fide* payment by the occupier or such person accordingly; or

*Thirdly*, in the case of a total omission or refusal to rate any person whatever, or to receive any payment of rates, in respect of the premises, a claim by the occupier to be rated and actual payment or tender of the rate for the time being in force.

The poor rate is a tax towards the necessary relief of the lame, impotent, old, blind, and such other persons within a parish or township being poor and not able to work, and for the putting out of poor children to be apprentices, levied upon the inhabitants and occupiers of land, houses, tithes, sporting rights, and mines within the parish or township (*e*). The rate is raised prospectively for some given portion of the year, and upon a scale adapted to the probable exigencies of the parish. The method of raising the rate is as follows:—

First, it is assessed and signed by the majority of the parish officers—that is to say, of the churchwardens and overseers; then it is allowed and confirmed by two justices of the peace; and lastly, it is published by the overseers on the Sunday next after such allowance by affixing a notice of the allowance upon the most usual door of every church and chapel in the parish (*f*).

When all these several stages have been duly passed, the rate then becomes of legal and binding effect, and payable from the persons upon whom it is assessed.

The form of the rate (*g*) must be headed with a proper heading, showing for what purpose and by what authority it is made, and the date of it, and the amount in the pound at which it is assessed. The body of it is divided into columns showing the number, the amount of arrears due or if excused, the name of the occupier, the name of the owner, the description of the property rated, the name and situation of the property, its estimated extent, the gross estimated rental, the rateable value, and the amount of the rate in the pound with respect to each separate rateable hereditament.

(*e*) Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, and the Rating Act, 1874 (37 & 38 Vict. c. 54), s. 1.

(*f*) Poor Relief Act, 1743 (17 Geo. 2, c. 3), s. 1; Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 2; *Ræ v. Newcomb* (1791), 4 T. R. 368; *Sibbald v. Roderick* (1839), 11 A. & E. 38; *Ormerod v. Chadwick* (1847), 16 M. & W. 367.

(*g*) 6 & 7 Will. 4, c. 96, s. 2, and schedule.

All these particulars, with others, are also required to appear in the rate book kept by the overseers according to the proper form prescribed by Schedule A. of the Poor Law Board's General Order for Accounts, dated January 14th, 1867 (*h*).

The particulars which are of importance for the present purpose are the name of the occupier, the name of the owner, the description of the property rated, its name, situation and extent, the rateable value of it, and the amount payable.

The proper person to be rated in respect of the premises is, as a general rule, the occupier and not the owner (*i*), and the name of the occupier ought to be entered in the rate book (*k*) in the column added thereto for that purpose.

The name of the occupier of every rateable hereditament must be entered by the overseers in the occupier's column of the rate book, whether the rate is in fact collected from the owner or from the occupier (*l*) or whether the owner in the case of any hereditament of small value has made an agreement as to paying the rates, or been ordered by the vestry to be rated (*m*), and in fact, in all cases whatsoever (*n*).

If the name of the occupier is altogether omitted, provided that some name or other is entered in the rate book as that of a person rated in respect of the premises, the occupier is to be entitled to every qualification and franchise depending upon rating, in the same manner as if his name had not been so omitted (*o*), that is to say, the condition as to rating is to be taken as having been fulfilled, and if the condition as to payment of rates has been also fulfilled as hereinafter mentioned, then the occupier will be entitled to be registered, if otherwise duly qualified.

The importance of the particulars of the description of the

(*h*) Macmorran's and Lushington's Poor Law General Orders, Appendix, p. 1138.

(*i*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 7. For the purposes of a ten pounds occupation qualification it may be said that there is no exception to the rule.

(*k*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 7.

(*l*) Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 19.

(*m*) Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), ss. 3 and 4.

(*n*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 14, affirming the decisions in *Smith v. The Overseers of Sghill* (1875), L. R. 10 Q. B. 422; and *Barton v. The Town Clerk of Birmingham* (1878), 48 L. J. C. P. 87, and overruling dicta in *Cross v. Alsop* (1870), L. R. 6 C. P. 315.

(*o*) Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 19; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 14. The effect of these enactments is to overrule *Norris v. The Town Clerk of Hastings* (1868), L. R. 4 C. P. 498.

property rated, its name and situation, and extent, consists in this, that where property which is rateable and ought to have been rated has not been rated at all to a poor rate made during the qualifying period, and in respect of which such rate has not been paid, the occupier will not be entitled to be registered as a voter or to vote in respect of it.

This point has been decided first in Ireland (*p*) and afterwards in England (*q*). And in the Irish case of *M'Gaffigan v. Riddall*, it was further decided that a subsequent valuation of the premises for the purposes of the poor rate having been made, a claim to be rated to the former rate and tender on the basis of the subsequent valuation was immaterial and had no effect in getting over the difficulty.

The full rateable value of the premises, and the full rate payable by the occupier, must be entered by the overseers in the rate book (*r*) in the proper columns for that purpose.

The rates to which the occupier, or some one else, must have been rated, are all the poor rates *made* in respect of the premises during the period of occupation.

A poor rate is deemed to be *made* on the day when it is allowed by the justices, and if the justices sever in their allowance, then on the day of their last allowance (*s*).

This enactment was passed in order to settle the questions which arose by reason of the fact that a rate was held to have no legal and binding effect until it had passed through all the various stages of assessment and signature by the parish officers, allowance by the justices, and due publication of the notice of such allowance.

This being so, it had been held, before the passing of this enactment, that a rate assessed and signed by the overseers previously to the commencement of the qualifying period, but allowed by the justices and duly published within the qualifying period, was not a rate *made* during the qualifying period (*t*); but that a rate

(*p*) *M'Gaffigan v. Riddall* (1890), 28 L. R. Ir. 257. See *post*, p. 181, n. This case was decided with regard to a household qualification, but is of equal authority in respect of a ten pounds occupation qualification.

(*q*) *Palmer v. Wade*, [1894] 1 Q. B. 268. See *post*, pp. 185, 186. This case was decided with regard to a household qualification, but is of equal authority in respect of ten pounds occupation qualification.

(*r*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 7.

(*s*) Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 17.

(*t*) *Jones v. Bubb* (1868), L. R. 4 C. P. 468, a case actually decided with reference to a household qualification, but of equal authority in respect of a ten pounds occupation qualification.

assessed previously to the commencement of the qualifying period, and signed by the overseers, allowed by the justices, and duly published within the qualifying period, was a rate *made* within the qualifying period (*u*).

All such disputes, however, are now at an end, and if a rate has been allowed by the justices within the qualifying period, it is deemed for this purpose to have been *made* within the qualifying period, and is such a rate as falls within the condition as to rating, notwithstanding that it may not have been assessed or signed by the overseers or duly published in accordance with the statutes in that behalf within the qualifying period.

Where the name of the occupier, the premises for which he is rated, the full rateable value, and the full amount payable by the occupier in respect of every rate made during the period of occupation in respect of the premises, appear in the rate book, so that it is clear that the enactments have been substantially complied with, small irregularities of form will not effect the disqualification of the occupier. This is illustrated by the following cases.

In *Wright v. Town Clerk of Stockport*, decided in 1843, several occupiers of structurally-severed tenements in one factory were jointly rated with their common landlord, the names of all appearing on the rate book and enclosed in a bracket, opposite which the premises rated, the full rateable value, and the amount of the rate, were entered without separate entries in the case of each separate occupier. The court held that each occupier, being rated for the whole factory, was rated for that part of it which he occupied himself (*x*).

In *Judson v. Luckett*, decided in 1846, Henry William Judson and his landlord occupied structurally-severed parts of a house, and in the rate book the name of the landlord was on the rate, with the house opposite to his name, and Judson's name was placed under that of the landlord, but nothing was carried out against his name, nor were the names of the landlord and Judson connected by a bracket or otherwise. The court held that upon these facts it appeared that Judson's name was on the rate as a person charged, and that a rate so made would be construed to charge him in respect of the premises inserted opposite to the

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(*u*) *Ainsworth v. Crooke* (1868), L. R. 4 C. P. 476; a case actually decided with reference to a household qualification, but of equal authority in respect of a ten pounds occupation qualification.

(*x*) *Wright v. The Town Clerk of Stockport* (1843), 5 M. & G. 33.



landlord's name in the line above, just as effectually as if the word "ditto" had been inserted, or a brace had been used, and that Judson was entitled to be registered (*y*).

Practically the same point was decided in the same way in the case of *Pariente v. Luckett* (z), decided about one month previously to *Judson v. Luckett* in the same year; for, although there was in *Pariente v. Luckett* another point as to continual claim, that point was regarded by the judges as conceded, and the question to which the court applied itself was precisely the question as to the form of the rate which was afterwards decided in the same way in *Judson v. Luckett*.

The rates which must have been paid in order to entitle the occupier to be registered are all rates made and allowed on and after January 5th in the year preceding the year in which the occupier is to be registered, and which shall have become payable up to, but not including, January 5th in the year in which the occupier is to be registered.

In the case of *Cull v. Austin*, decided in 1872, where the occupier, being otherwise duly qualified, had been duly rated to a rate made and allowed previously to January 5th in the year preceding the qualifying year, and had been excused, and it was argued invalidly excused, from payment by the justices, and had never paid the rate, it was held that he was nevertheless entitled to be registered as having fulfilled the conditions as to payment of rates imposed by section 3 of the Representation of the People Act, 1867, as they ought to be construed having regard to the enactments to be construed as one therewith under sections 56 and 59 of the same Act (a).

A rate does not *become payable* within the meaning of this condition unless it appears to be valid upon the face of it, and there is nothing more to be done which the law requires to be done in order to bring home his liability to the party liable for the payment of it.

In *Fox v. Davies*, decided in 1848, the allowance of the rate in question was not signed by two justices as required by the Poor

(y) *Judson v. Luckett* (1846), 2 C. B. 197.

(z) *Pariente v. Luckett* (1846), 2 C. B. 177.

(a) *Cull v. Austin* (1872), L. R. 7 C. P. 227. This case, though actually decided with reference to a household qualification, is of equal authority in respect of a ten pounds occupation qualification. In Ireland the law is different, and all rates in arrear not statute barred which shall have become payable up to January 5th, must be paid. *Clarke v. Torish* (*McGonagle's case*) (1885), 18 L. R. Ir. 60.

Relief Act, 1601, s. 1, but was signed by two persons, one of whom was a justice of peace for the borough, but the other was not. The court held that this was on the face of it no valid rate, and had not therefore *become payable*, so that non-payment was no default in the performance of the condition as to payment of rates (*b*).

Again, in *Baker v. Locke*, decided in 1864, where the rate in question had been made, allowed, confirmed, and published during the qualifying period and demanded from the occupier, and had not been appealed against within the proper period, it was argued that it had not *become payable* on the ground that it was void for not being signed by a majority of the parish officers as required by the Poor Relief Act, 1601 (*c*). There were in the parish four overseers, one assistant overseer, and two churchwardens, so that four would be the number required to constitute a majority, whether the assistant overseer were to be included as one of the parish officers or not. The rate in question had been signed by the two churchwardens, one of the overseers, and the assistant overseer. It was objected that the assistant overseer was not one of the parish officers having authority by law to sign the rate, and therefore it was not signed by the required majority. The court held that presumably the assistant overseer was authorized by law to sign the rate, since by the Poor Relief Act, 1819 (*d*), section 7, assistant overseers were empowered to execute all the duties of the office of overseer which are expressed in their warrant of appointment, and in this case the warrant authorized all such duties, expressly excepting the collection, but not expressly excepting the signing of rates, and the assistant overseer had also been duly appointed collector of rates. The court also held that the rate having been duly allowed, confirmed, and published, and not appealed against, was valid on the face of it, and therefore the occupier, not having paid it, was not entitled to the registered (*e*).

The case of *Flutcher v. Boodle*, in 1864, decided that a rate is not to be considered to have *become payable* from the occupier if there is anything left undone which the law requires to be done in order to bring home to him his liability to pay it. In that case

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(*b*) *Fox v. Davies* (1848), 6 C. B. 11. This case was decided with regard to the qualification of a scot and lot voter who claimed to be registered in respect of a right personally reserved under section 33 of the Reform Act, 1832 (2 & 3 Will. 4, c. 45), but it is equally applicable to the ten pounds occupation qualification created under section 27, because both sections alike require rating and payment of rates as a condition of registration.

(*c*) 43 Eliz. c. 2.

(*d*) 59 Geo. 3, c. 12.

(*e*) *Baker v. Locke* (1864), 18 C. B. (N.S.) 52.

the claimant had gone into occupation before the first day of the qualifying period, and at the time when he went into occupation a rate was then in existence which extended over a portion of the qualifying period. He never paid any part of such rate, nor was it demanded of him. It was not stated in the case, but the court assumed that this rate had not been paid by the outgoing tenant. The objection made to the claimant was that by section 12 of the Poor Relief Act, 1743 (*f*), he was liable on coming into occupation to pay a proportionate part of the rate then in existence, and that, therefore, it was a rate which had *become payable* from him. The court held (WILLIAMS, J., *diss.*) that the claimant not having been called upon to make good the default of the outgoing tenant, and not having refused or neglected to make such default good, the rate in existence at the time when he went into occupation could not be considered to have *become payable* from him, merely because there was a contingent liability to pay under the Poor Relief Act, 1743 (*g*), section 12, an amount which had not even been ascertained (*h*).

The assessed taxes, which must also have been paid in order to entitle a ten pounds occupier to be registered, include all assessed taxes due and payable before January 5th in the year in which the occupier is to be registered (*i*). At the date of the passing of the Reform Act, 1832, when the ten pounds occupation qualification was first created, and payment of assessed taxes required as a condition of registration in respect of it, "assessed taxes" included for this purpose the inhabited house duty and window tax then payable under statutes since repealed. "Assessed taxes" was the term under which at the date of the Reform Act, 1832, the taxes on inhabited houses and windows, and on carriages, men-servants, saddle, carriage, and race horses were included. These taxes had been grouped together by Pitt in 1785, under the management of the Board of Taxes, for the purpose of more effectually preventing the evasion, and the securing of the collection of them, and they were first called "assessed taxes," as a generic term in the title of the House Tax Act, 1808 (48 Geo. 3, c. 55), by which Act the amounts payable were altered in order to meet public financial requirements. Since that date the term has been applied to these taxes, throughout a long series of statutes, many of which will be

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(*f*) 17 Geo. 2, c. 38, s. 12.

(*h*) *Flatcher v. Boodle* (1865), 18 C. B. (N.S.) 152.

(*g*) 17 Geo. 2, c. 38.

(*i*) N.B.—The payment of assessed taxes is not a condition of registration in respect of a household qualification.

found repealed in Schedule E. of the Revenue Act, 1869 (32 & 33 Vict. c. 14). Income tax was not leviable at the date of the passing of the Reform Act, 1832, having been totally repealed by Lord Liverpool's administration in 1815, but when it was reimposed under Peel, by the Income Tax Act, 1842, in order to prevent any misconception, it was specially provided that non-payment of income tax assessed on houses under Schedule A. should not prevent any person from being registered or from voting (*k*). Inhabited house duty, though repealed by Lord Althorpe, by the House Tax Act, 1834 (4 & 5 Will. 4, c. 19), was revived again under Sir Charles Wood by the House Tax Act, 1851 (*l*), which statute imposed the duty, in substitution also for the window tax. Therefore "assessed taxes" for the purposes of the ten pounds occupation qualification now include only the inhabited house duty payable under the House Tax Act, 1851 (*l*). Assessed taxes become payable within the meaning of this condition without any demand made upon the occupier, in consequence of section 8 of the Customs and Inland Revenue Duties Act, 1869 (*m*), on or before January 1st in each year. Under the Acts previously in force, assessed taxes were made payable by quarterly instalments. The house tax was so payable by the House Tax Act 1803, (*n*), section 23, and it was held that by virtue of that Act each instalment became payable from the occupier within the meaning of section 27 of the Reform Act, 1832 (*o*), although no demand for payment was made on him. For instance, in the case of *Ford v. Smedley*, decided in 1852, where the occupier had not paid on or before the July 20th, the quarterly instalment of house tax which fell due on the previous December 20th, it was held that he had not fulfilled the required condition of having paid all assessed taxes which had become payable from him previously to April 6th then next preceding, although no demand for payment had been made on him by the collector until April 10th (*p*).

This decision, having due regard to the alteration of dates by the Customs and Inland Revenue Duties Act (*q*), and by the Parliamentary Elections Act, 1848 (*r*), as to the time of payment, seems still applicable to the ten pounds occupation qualification as at present constituted.

Where part of the premises are occupied as a shop the inhabited

(*k*) 5 & 6 Vict. c. 35, s. 184.

(*l*) 14 & 15 Vict. c. 36.

(*m*) 32 & 33 Vict. c. 14.

(*n*) 43 Geo. 3, c. 161.

(*o*) 2 & 3 Will. 4, c. 45.

(*p*) *Ford v. Smedley* (1852), 12 C. B. 622.

(*q*) 32 & 33 Vict. c. 14.

(*r*) 11 & 12 Vict. c. 90.



house duty, upon the whole premises, is subject to reduction, but non-payment of the reduced duty is just as fatal to the qualification as non-payment of the full duty (s).

It is a sufficient payment of rates and taxes if they have been paid on account of the occupier by those whom he has procured to do so by giving them value for it, as appears by the following cases :—

In *Hughes v. The Overseers of Chatham (Burton's Case)*, decided in 1843, the occupier was rated in his own name to all the poor's rates and assessed taxes in respect of the qualifying premises. Such rates and taxes were in fact paid on his behalf by his landlords, the Lords Commissioners of the Admiralty, in part remuneration for his services as a master ropemaker in the dock-yard. The court held that the rates and taxes had been sufficiently paid by him within the meaning of the Act, and that he was entitled to be registered (t).

And in *Wright v. The Town Clerk of Stockport*, decided in the same year, where upon the rate books the landlord and tenant appeared to be rated jointly, and it was part of the agreement between them that the landlord was to pay the rates, the rent being higher in consideration of such payments, the landlord in point of fact himself paid all the rates, and it was held that this was a sufficient payment on behalf of the occupier, and that the tenant was entitled to be registered (u).

But it is not equivalent to a sufficient payment if the occupier has been excused by the justices from payment of rates on the ground of poverty under the Poor Relief Act, 1814 (x), s. 11, and the rates from the payment of which he has been so excused, being such rates as ought to have been paid in order to entitle him to be registered, have never in fact been paid by him or by any person on his behalf (y). Even a purely gratuitous payment of rates by a stranger, not being a corrupt payment, would probably not be sufficient to entitle the occupier to be registered (z). A corrupt payment in order to influence the vote acquired is punishable as bribery (a).

(s) *Lee v. The Town Clerk of Bradford* (1871), 1 Hopw. & Colt. 733.

(t) *Hughes v. The Overseers of Chatham* (1843), 5 M. & G. 54.

(u) *Wright v. The Town Clerk of Stockport* (1843), 5 M. & G. 33.

(x) 54 Geo. 3, c. 170.

(y) *Abel v. Lee* (1871), L. R. 6 C. P. 365, decided with reference to a household qualification, but equally applicable to the ten pounds occupation qualification.

(z) *R. v. The Mayor of Bridgnorth* (1839), 10 A. & E. 66.

(a) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 49.

In order to enable the occupier to make sure that the necessary rates have been duly paid it is provided by section 28 of the Representation of the People Act, 1867 (*b*), that where any poor rate due on January 5th in any year from an occupier in respect of premises capable of conferring the franchise remains unpaid on June 1st following, the overseers, whose duty it is to collect such rate shall, on or before June 20th, unless such rate has previously been paid or has been duly demanded by a demand note, give or cause to be given a notice to every such occupier. And the notice shall be deemed to be duly given if delivered to the occupier or left at his last or usual place of abode, or with some person on the premises in respect of which the rate is payable. But if the necessary rates have not in fact been paid at all, then although the owner may have been duly rated instead of the occupier, and although notice as to non-payment may not have been given to the occupier as required by section 28 of the Representation of the People Act, 1867, the occupier will not be entitled to be registered (*c*).

No misnomer or inaccurate or insufficient description of the occupier, nor any inaccurate description of the premises occupied, in any rate will have the effect of preventing the occupier from being registered as a voter and from voting in respect of the premises where the occupier, being the person liable to be rated for such premises, shall have been *bonâ fide* called upon to pay all rates made in respect of the premises during the required period of occupation, and shall have *bonâ fide* paid on or before July 20th all sums of money which he shall have been called upon to pay as rates in respect of such premises for one year previous to January 5th then next preceding, but such occupier shall be considered as having been rated and as having paid all rates in respect of the premises required to be paid by him, and shall be entitled to be registered in respect of the same, any misnomer, or inaccurate or insufficient description in any rate of the person so occupying, or of the premises occupied, notwithstanding (*d*).

A total omission of the name of the occupier from any rate is not an insufficient description or inaccuracy such as is provided for by this enactment (*e*). The total omission of any name of any

(b) 30 & 31 Vict. c. 102.

(c) *Clarke v. Buchanan (Carlin's case)* (1886), 20 L. R. Ir. 244.

(d) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 75.

(e) *Moss v. The Overseers of St. Michael's, Lichfield* (1844), 7 M. & G. 72. Since the enactments referred to in the next sentence of the text, the result of this case would have been different under the circumstances, but it remains an authority to the extent of the proposition for which it is cited.

occupier where some name or other, as for instance, that of the owner or of a joint occupier, is entered in the rate as that of the person rated in respect of the premises is provided for by section 19 of the Poor Rate Assessment and Collection Act, 1869 (*f*), and section 14 of the Parliamentary and Municipal Registration Act, 1878 (*g*), as above mentioned (*h*). The total omission of the name of any person whatever as being rated in respect of the premises, so that it does not appear from the rate that any one at all is rated in respect of the premises, is provided for by the third alternative, viz., claim and tender as hereinafter mentioned (*i*).

The case of *Cook v. Luckett*, decided in 1846, is an instance of a misdescription within the meaning of section 75 of the Parliamentary Registration Act, 1843 (*k*), and also of what amounts to a *bonâ fide* calling upon the occupier to pay and *bonâ fide* payment within the same enactment. In that case, William Cook was rated to all the poor rates as the occupier of No. 4, Golden Lane, in the City of London, but he did not occupy No. 4, and he was inserted in the rate-book for No. 4 by a mistake of the overseers. In fact, he held No. 3, and had an express agreement with his landlord that the latter should pay all the rates and taxes in respect of the premises. His landlord had called upon him to pay and he had paid all the rent due in respect of the house, and the landlord had been called upon to pay and had paid all the poor rates due in respect of the house. Cook had duly claimed to be registered in respect of No. 3. It was held that the mistake of the overseers in rating him in respect of No. 4 instead of No. 3 was an inaccuracy that was amendable under section 75, and that the calling upon the landlord to pay, and the payment by him of the rates, in accordance with the express agreement between Cook and his landlord, Cook having been called upon to pay and having paid all rent due in respect of the premises, were equivalent to a *bonâ fide* calling upon Cook to pay, and a *bonâ fide* payment of the rates by him (*l*).

The case of *Little v. The Overseers of Penrith*, decided in 1872, is another instance of a misdescription within the meaning of section 75 of the Parliamentary Registration Act, 1843. This was a case of a claim to the twelve pounds county occupation franchise, and there were conditions as to rating and payment of rates in respect of that qualification not unlike the conditions as to

(*f*) 32 & 33 Vict. c. 41.

(*g*) 41 & 42 Vict. c. 26.

(*h*) *Ante*, p. 170.

(*i*) *Post*, p. 180.

(*k*) 6 & 7 Vict. c. 18.

(*l*) *Cook v. Luckett* (1846), 2 C. B. 168

rating and payment of rates in respect of a ten pounds occupation qualification in boroughs under the Reform Act, 1832, and section 75 of the Parliamentary Registration Act, 1843, was applicable to the qualifications created by the Representation of the People Act, 1867 (under section 6 of which last-mentioned Act the twelve pounds county occupation qualification was created), by virtue of sections 59 and 56 of the later Act. So that the case may be cited as equally applicable to the ten pounds occupation qualification as it now exists. The facts in *Little v. The Overseers of Penrith* were that the name of the actual occupier was George Arnison. In the rate-book the name of the occupier of the premises in respect of the occupation of which the claim was made was entered as "N. Arnison and Sons," and the name of the owner as "Nathan Arnison." The "N. Arnison" was for Nathan Arnison, and the "Sons" was meant for George Arnison and his brother, who at one time previously had carried on business in partnership with their father on the premises, but their father had some years ago retired from the business, and since then the sons had carried on the business as the sole occupiers of the premises in question. When the rates were called for they were duly paid by one or other of the sons, and a receipt given in the name of N. Arnison and Sons. It was held that the sons were entitled to be registered (*m*).

If the overseers altogether omit or refuse to rate any person whatever in respect of the premises to rates made during the required period of occupation, and there is a total omission of the name of any person as a person rated, either as occupier or owner, in respect of the premises in any rate made during the period of occupation, the occupier may, on or before July 20th in the year in which he is to be registered, once for all claim to be rated, and upon his so claiming and actually paying or tendering the full amount of the rate or rates, if any, due in respect of the premises on January 5th preceding, the overseers are required to put the name of such occupier on the rate for the time being, and in case the overseers neglect or refuse to do so, such occupier shall nevertheless be deemed to have been rated from the period at which the rate in respect of which he so claims was made and shall be entitled to be registered if in other respects he is duly qualified (*n*).

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(*m*) *Little v. The Overseers of Penrith* (1872), L. R. 8 C. P. 259.

(*n*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 30; Compound Householders Act, 1851 (14 & 15 Viet. c. 14); Poor Rate Assessment and Collection Act, 1869 (32 & 33 Viet. c. 41), s. 19; Parliamentary and Municipal Registration Act,



No particular form of claim to be rated is prescribed by any of the Acts in force relating to registration ; the following form may therefore be found useful :—

“To the Overseers of the parish [or township] of

“I hereby give you notice that I claim to be rated to all rates made by you for the relief of the poor since the 15th day of July last past in respect of [*here insert description, name, and situation of qualifying premises, after the manner in which they would be inserted in a rate*] (o) in my occupation ; and I hereby tender payment of the full amount of all rates made previously to the fifth day of January last and now due, if any.

“(Signed)

“ of [*here state place of abode of claimant, with postal address in full.*]

“Dated this       day of       .”

[*This must be some date within the required period of occupation, i.e., on or before the 15th July in the year in which the claimant desires to be registered.*]

This claim may be served upon the overseers by personal service upon any of them, or by leaving it at the place of abode, or office, or other place for transacting parochial business, of any one of them in the manner and subject to the conditions under which a notice of claim or objection may be served upon overseers as hereinafter discussed (*p*). Service upon an assistant overseer properly qualified to act as such is a good service upon the overseers. This was decided in the case of *Caunter v. Addams* in 1863. In that case it was held that a claim to be rated which was served on an assistant overseer was properly served on the overseers, although the salary of the assistant overseer had been raised since his appointment by a resolution passed by the vestry, and there had been no subsequent reappointment of him by the justices. By the Poor Relief Act, 1819 (*q*), the salary must be fixed before

1878 (41 & 42 Vict. c. 26), s. 14 ; *Ainsworth v. Crock* (1868), L. R. 4 C. P. 476 ; *Medwin v. Streeter* (1869), L. R. 4 C. P. 488. In *M’Gaffigan v. Riddall* (1890), 28 L. R. Ir. 257, M’Gaffigan’s house into which he removed during the qualifying period was not rated in a rate made within a week after he entered it, and although it had been built for several years had never been rated or valued for rating. But some time after M’Gaffigan entered, it was valued for the first time for the purposes of the poor rate, and thereupon M’Gaffigan tendered a sum equal in amount to the last rate to which the house ought to have been rated, and subsequently claimed to be rated. It was held, however, that this claim and tender had no effect, because the guardians could not take money as poor rate which had not been assessed on the premises, and could not insert unrated premises on the rate. But it is doubtful whether this decision is good law in England as it turned on a statute applicable to Ireland only (13 & 14 Vict. c. 110), and different from the Poor Rate Assessment and Collection Act, 1869, which does not apply to Ireland.

(o) The claim must be sufficiently specific to enable the premises in respect of which it is served to be identified by the overseers. *Torish v. Moore* (1894), 29 Ir. L. T. Rep. 25.

*p*) *Post*, Chapter V.

(*q*) 59 Geo. 3, c. 12.

the justices are empowered to appoint; it was therefore contended that the original appointment was vacated by the subsequent raising of the salary, but the court thought the original appointment held, although the increase of salary might not be enforceable (r).

Claim and tender, or actual payment of rates, were formerly necessary in all cases where the name of the occupier did not appear on any rate made during the period of occupation, although some other person might have been actually rated, and all the rates had been in fact paid in respect of the premises (s). But, as already explained (t), this is not now the case, and it need only be made as above stated where no one has been actually rated in respect of the premises. It was also formerly necessary that the claim and tender should be repeated every time a fresh rate, on which the name of the occupier did not appear, was made during the required period of occupation; every claim being limited in its operation to the rate for the time being in force (u). But the necessity for making continual claim was taken away, and a claim made once for all rendered sufficient by the Compound Householders Act, 1851 (x).

In order to be considered to have actually tendered payment of the rates due, it was held in *Bishop v. Smedley*, in 1846, that the claimant must at least show that he has done all he reasonably could do towards payment (y). In that case, Bishop had never been rated to the poor rate for the house which he occupied, so he delivered to one of the overseers a claim to be rated, and asked him whether there were any rates due. There was, in fact, 3*l.* 2*s.* 6*d.* due for rates, which ought to have been paid in order to complete Bishop's qualification, but the overseer said he did not know whether there were any rates due. Bishop then said "If there are, I am prepared to pay them"; the overseer replied, "I will see to it." Bishop did not produce or offer any money, and went away and made no further inquiry. It was held that Bishop had made no sufficient tender.

A claim and tender, or actual payment, must be made within the required period of occupation. This was decided with reference

(r) *Caunter v. Addams* (1863), 15 C. B. (N.S.) 512.

(s) *Moss v. The Overseers of St. Michael's, Lichfield* (1844), 7 M. & G. 72.

(t) *Ante*, p. 170.

(u) *Wansley v. Perkins (Lockey's case)* (1845), 7 M. & G. 145. A rate once made existed as the rate for the time being in force until superseded by a fresh rate duly made, signed, allowed, and published. *Bushell v. Lockett* (1846), 2 C. B. 111.

(x) 14 & 15 Vict. c. 14.

(y) *Bishop v. Smedley* (1846), 2 C. B. 90.

to a household qualification in the case of *Medwin v. Streeter*, in 1869, and the case is equally of authority in respect of a ten pounds occupation qualification. In that case, Streeter, the occupier of a dwelling-house, had never been rated in respect of the premises, but before July 20th in the year in which he claimed to be registered he had paid all rates due in respect of the premises up to the preceding January 5th. On the following August 24th he served on the overseers a claim to be rated to all rates made since the commencement of the requisite period of occupation. The court held that the claim was too late, and ought to have been made within the period of occupation, and that the occupier was therefore not entitled to be registered in respect of the premises (z).

If a claim and tender or payment are acts capable of ratification, which has never been decided, they must be ratified at a time and under circumstances when the ratifying party himself might have effectually made them, that is to say, within the required period of occupation. This was decided with reference to a household qualification in the case of *Ainsworth v. Creeke*, in 1868, and that case is of equal authority in that respect as regards a ten pounds occupation qualification. In that case the fact relied upon as a ratification of what may be taken for the purpose to have been a claim to be rated made on behalf of the occupier was the appearance of the occupier in order to support his claim to be registered at the court of the revising barrister held some weeks after the expiration of the required period of occupation. And the court held that this fact occurred too late to be relied upon as a ratification, even supposing that a claim to be rated was capable of ratification, and even supposing that what occurred in that case amounted to a claim to be rated on behalf of the occupier; and the court held that the occupier was not entitled to be registered (a).

Where the qualification consists of premises occupied in succession, it seems that, if the occupier has in fact paid all the rates which must be paid, it does not matter that no name at all appears to have been inserted in the rates made in respect of any of the premises (other than the premises originally occupied by

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(z) *Medwin v. Streeter* (1869), L. R. 4 C. P. 488. There had been in Ireland a previous decision to the contrary. *Muldowney v. Malcolmson* (1864), 15 Ir. C. L. R. 375. But since *Medwin v. Streeter*, the Irish Court of Appeal in *Harrington v. Raymond* (1883), 20 L. R. Ir. 386 n.; and again in *O'Hagan v. Colquhoun* (1886), 20 L. R. Ir. 384, refused to follow *Muldowney v. Malcolmson*.

(a) *Ainsworth v. Creeke* (1868), L. R. 4 C. P. 476.

him at the commencement of the qualifying period), as that of the person rated in respect of such premises. But, since the occupier must in fact have paid the rates, it seems that at least each of the premises occupied in succession other than those originally occupied during the qualifying period must have been included in the rates made and payable since the party came into occupation, and whilst he was in occupation, although the columns in the rate book for the names both of the owner and occupier of each of the premises other than those originally occupied, and the column for the name of the occupier of the premises originally occupied, may have been left absolutely blank. This appears to be so for the following reasons:—First, even when it was absolutely necessary that the name of the occupier should appear on all the rates made during the qualifying period, in cases where the same premises were occupied during the whole of such period, it was not necessary that the name of the occupier should appear on the rates made during the qualifying period in respect of the premises occupied in succession, or that such occupier should make any claim to be rated in respect of such rates, provided that he had in fact paid such rates.

This was the construction put upon section 28 of the Reform Act, 1832, in the case of *Rogers v. Lewis*, in 1859. In that case John Jones occupied a house in Crown Street, Reading, for the first five months of the qualifying period, and was duly rated to and paid the only rate made in respect of those premises during his occupation. He then moved to other premises in Boulton's Walk, Whitley Street, Reading, which he occupied for the remainder of the qualifying period. During his occupation of these latter premises, a rate was made on which his name did not appear; and he made no application to be rated, but the collector called on him, and he paid the rate, for which the collector gave him the usual receipt. It was held that the payment of the rate was sufficient upon the wording of section 28 to entitle him to be registered, although his name did not appear on the rate, and he had made no claim to be rated (*b*).

And in the case of *Moger v. Escott*, decided in 1873, with reference to a household qualification, it was held that the proviso to section 28 of the Reform Act, 1832, as interpreted in the case of *Rogers v. Lewis*, must, by virtue of sections 56 and 59 of the Representation of the People Act, 1867, be read into section 26 of

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(b) *Rogers v. Lewis* (1859), 7 C. B. (N.S.) 29.



the latter Act, which provided for the occupation of premises in succession in respect of a household qualification. In that case, Thomas Moger occupied as tenant two houses in immediate succession during the qualifying period. In respect of the first house he was duly rated to all rates made for the relief of the poor during his occupation, and had paid all rates payable by him in respect of the premises so occupied by him. During his occupation of the second house a rate was duly made in which, although the name of his landlord appeared, his own name did not appear, nor did he make any claim to have his name placed upon the rate book, nor were any circumstances shown which would enable him to avail himself of the benefit of section 19 of the Poor Rate Assessment and Collection Act, 1869 (*c*); but all rates payable in respect of the premises occupied by him were, previous to July 20th, paid by his landlord. It was held that Moger was entitled to be registered (*d*).

In the case of *Rogers v. Lewis* the occupier had been in fact rated in respect of the premises originally occupied by him, but it is now clear, from section 19 of the Poor Rate Assessment and Collection Act, 1869, and section 14 of the Parliamentary and Municipal Registration Act, 1878, that, provided some one is in fact rated in respect of the premises originally occupied, yet at least the mere omission of the name of the occupier from any rate made in respect of such premises is not material. In *Moger v. Escott*, which was subsequent to the former of those enactments, as well as in *Rogers v. Lewis*, the owner was in fact rated in respect of the premises other than those originally occupied, but it would certainly seem from those decisions that, if the occupier had known what sum ought to have been paid for rates in respect of such premises, and had paid that sum, it would be immaterial whether the name of any person at all appeared on the rates made in respect of such premises, provided that, if any rates were made in respect of the property generally in the same parish during such period, such rates should have been made in respect of the premises occupied in succession equally with the rest of the parish. This last point was decided in the case of *Palmer v. Wade* (*e*). In that case, Palmer occupied in succession during the qualifying period, houses in New Market Street and in Gloucester Street, Norwich. Rates were made in August and February during that period, and were paid by the owner of the

(*c*) 32 & 33 Vict. c. 41.  
(*e*) (1894) 1 Q. B. 268.

(*d*) *Moger v. Escott* (1872), L. R. 7 C. P. 158.

house in New Market Street during Palmer's occupation, the name of Palmer being duly entered in the rate book as occupier, but when Palmer moved into the house in Gloucester Street, that house was not rated at all to the current rate, and no claim to be rated was made by anyone. It was therefore held that Palmer was not entitled to be registered or to vote in respect of it (*f*).

With regard to payment of rates where the qualification consists of premises occupied in succession, it is to be observed that the occupier is only required to have paid all the rates which shall have become payable *from him* in respect of all such premises so occupied by him in succession. Therefore it is not necessary that rates made after he left the premises originally occupied by him, but before January 5th in the qualifying year, and due in respect of the premises originally occupied by him from the succeeding occupier should have been paid at all.

Thus, in an Irish case of *Campbell v. Chambers* (*Kempston's case*), decided in 1887, James Kempston claimed to be registered for premises in succession at Ferry Quay Street, and previously at Strand Road, in the City of Londonderry. He occupied the premises at Strand Road for the first part of the qualifying year and paid all rates due in respect of those premises up to the time when he moved into the premises at Ferry Quay Street, which he did on October 1st in the qualifying year, sub-letting the premises at Strand Road to one Gamble. After Gamble entered, a new rate was made on October 9th, and Kempston being still on the rate book as the occupier of the Strand Road premises, never paid it, nor did anyone else ever pay it. But Kempston paid all the rates due from him in respect of his new premises at Ferry Quay Street. And it was held that he was entitled to be registered and to vote because the rate assessed on the Strand Road premises after he had ceased to be the occupier of those premises never had become payable from him (*g*).

### 3. JOINT OCCUPIERS.

The case of joint occupiers of the same tenement is provided for by section 29 of the Reform Act, 1832, which is applicable to a ten pounds occupation qualification in boroughs as at present constituted under sections 5, 8, and 11 of the Representation of the People Act, 1884, as follows, viz. :—"Where any premises as aforesaid in any such city, borough, or place sharing in the election

(*f*) *Palmer v. Wade*, [1894] 1 Q. B. 268.

(*g*) *Campbell v. Chambers* (*Kempston's case*) (1887), 22 L. R. Ir. 258.

therewith, shall be jointly occupied by more persons than one as owners or tenants, each of such joint occupiers shall, subject to the conditions hereinbefore contained as to persons occupying premises in any such city, borough, or place, be entitled to vote in the election for such city or borough, in respect of the premises so jointly occupied, in case the clear yearly value of such premises shall be of an amount which, when divided by the number of such occupiers, shall give a sum of not less than ten pounds for each and every such occupier, but not otherwise (*h*).

With regard to the elements of the qualification:—

(1) **Tenement.**—If the tenement is a dwelling-house inhabited by the joint occupiers, but of sufficient value, they are not prevented from being registered as joint ten pound occupiers by reason of the fact that the proviso to section 3 of the Representation of the People Act, 1867, would have prevented more than one of them from being registered as an inhabitant householder (*i*).

(2) **Value.**—The value must be such as would, when divided amongst all the occupiers, give a sum of not less than ten pounds for each and every occupier.

(3) **Occupation.**—The occupation of one of two or more joint tenants on behalf of himself and the others is the occupation of all and is sufficient for the qualification of each (*j*), but if it cannot be shown that the one in actual occupation is in occupation on behalf of himself and the others without having recourse to an illegal contract between them, then none of them will be entitled to be registered or to vote. For instance, in *Harris v. Amery*, decided in 1865, forty-six persons, by agreement, hired a farm of sufficient value at a yearly rent, with the double object of obtaining votes and making a profit by farming, and they appointed one of their number to be manager and to farm the land on their account. The partnership was not registered under the Companies Act, 1862, and by section 4 of that Act, no association of more than twenty persons may be formed for the purpose of carrying on any business (other than that of banking) that has for its object the acquisition of gain by the association, unless it is registered, etc. It was

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(*h*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 29. Representation of the People Act, 1884 (48 Vict. c. 3), ss. 5, 8, 11.

(*i*) *Druitt v. Gossling* (1888), 58 L. J. Q. B. 109.

(*j*) *Jones v. Pritchard* (1891), 1 Fox & Smith 259. In this case it was held that the four canons of Bangor Cathedral, being jointly entitled to the occupation of a house called The Canonry, of sufficient value, agreed amongst themselves to reside there, one at a time, for three months each, and it was held as sufficient occupation, but if there had been an objection on the ground of non-residence, their claims would have failed.

therefore held that none of the forty-five were entitled to be registered or to vote in respect of their joint occupation of the farm (*k*).

(4) **Estate.**—If the estate of the joint tenants has been legally created, it is no objection to their qualification that it has been created solely for the purpose of obtaining votes.

In an Irish case of *Mooney v. Chambers* decided in 1893, two sons lived with their father in premises of which he was the tenant, and it was arranged that the premises should be pulled down and rebuilt, and that in order to obtain votes for the sons, they should become tenants of the premises when rebuilt, and be rated for them, paying the rent and rates out of their own pockets, but the father was to be surety for the rent and was to pay all the household expenses including the maintenance of his two sons. The premises were accordingly pulled down and rebuilt, and the arrangement was duly carried out; the premises when rebuilt being of sufficient value to qualify two joint occupiers. And it was held that the two sons were entitled to be registered and to vote in respect of the premises as joint occupiers (*l*).

If during the qualifying period one of two joint tenants ceases to occupy as tenant, either owing to a dissolution of partnership or to death or to any other event constituting a severance of the joint tenancy, the tenant remaining in occupation is not obliged to make a claim as tenant in succession. For instance in the Irish case of *Burnside v. Chambers* (*Burnside's case*), decided in 1887, Robert and William Burnside were partners in trade, and rated as joint occupiers of the premises in which they carried on their business and had been so rated for several years; the partnership was dissolved in the month of September in the qualifying year and Robert Burnside alone remained in the sole occupation of the said premises for the remainder of the qualifying year. The premises, however, continued to be rated in the two names, and Robert Burnside made no claim to be rated separately or to be put on the register as an occupier in immediate succession. And it was held that it was not necessary for him to claim as an occupier in immediate succession but that his name ought to be retained on the register (*m*).

Section 4 of the Representation of the People Act, 1884, relating to joint owners, has no application to the present subject, but relates to ownership qualifications in counties (*n*).

(*k*) *Harris v. Amery* (1865), L. R. 1 C. P. 148.

(*l*) *Mooney v. Chambers*, [1894] 2 I. R. 374.

(*m*) *Burnside v. Chambers* (*Burnside's case*) (1887), 22 L. R. Ir. 255.

(*n*) *McKenzie v. Wilson* (1894), 32 Scottish Law Reporter 149.



With regard to the conditions of registration :—

A payment of rates by one of two or more joint occupiers must enure to the benefit of all, and is virtually a payment by each for the purposes of the qualification of all (o).

### III.—HOUSEHOLD QUALIFICATION.

*A person entitled to be registered as a parliamentary elector in a borough in respect of a household qualification—*

- (A.) *Must on the fifteenth of July (p), in the year in which he is to be registered, be, and for the whole of the twelve months immediately preceding that day (except the time, if any, not exceeding four months, during which he has permitted the house to be occupied as a furnished house) (q), have been an inhabitant occupier as owner or tenant of some dwelling-house (r) within the borough, or of some part of a house within the borough separately occupied as a dwelling (s); and*
- (B.) *Such person (r) or some one else (t) must during those twelve months have been rated to all poor rates made in respect of the said dwelling-house; and*
- (C.) *All sums due in respect of the said dwelling-house on account of any poor rate made and allowed during the twelve months immediately preceding the fifth of January in the year in which such person is to be registered must have been paid on or before the following twentieth of July (r).*

*If two or more persons are joint occupiers of a dwelling-house, no one of them is entitled to be registered as an elector in respect of a household qualification in respect thereof (v); though, if the value is sufficient, one or more of them may be so entitled in respect of a ten pounds occupation qualification (u).*

*If a person has occupied different dwelling-houses within the same parliamentary borough in immediate succession during the said twelve months, he is entitled in respect of the occupation thereof to*

(o) *Wright v. The Town Clerk of Stockport* (1843), 5 M. & G. 33.

(p) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7.

(q) House Occupiers Disqualification Removal Act, 1878 (41 & 42 Vict. c. 3).

(r) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 3.

(s) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 5.

(t) Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 19.

(v) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 14.

(u) See *Druitt v. Gossling*, ante p. 187.

be registered as an elector in the parish or township in which the last occupied dwelling-house is situate (a).

If a person inhabits a dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service, or employment, he is deemed to be an inhabitant occupier of such dwelling-house as a tenant (b).

This qualification may, and to that extent like a ten pounds occupation qualification (c), be regarded as compounded of

1. THREE ELEMENTS OF QUALIFICATION (p. 190), (1) tenement; (2) occupation; and (3) estate; and the person possessed of such a qualification will be entitled to be registered in respect of it, provided also that
2. TWO CONDITIONS OF REGISTRATION (p. 217), viz., as to (1) rating; and (2) payment of rates, have been fulfilled. Lastly will be considered the subject of
3. JOINT OCCUPATION (p. 221).

#### 1. ELEMENTS OF QUALIFICATION.

(1) **Tenement.**—The first element, viz., that of tenement, is described in section 3 of the Representation of the People Act, 1867, as a “dwelling-house,” and the term “dwelling-house” was defined by section 61 of the same Act (by which Act the household qualification as distinct from a ten pounds occupation qualification was originally created) as including “any part of a house occupied as a separate dwelling, and separately rated to the relief of the poor” (d).

Having regard to the decisions as to the meaning of the word “house” in section 27 of the Reform Act, 1832, in the cases of *Cook v. Humber* (e), and *Henrette v. Booth* (f), to the effect that part of a house though commonly called a house of itself does not become a house in law unless there be an actual structural severance, and to the fact that, with these decisions before their eyes, the Legislature had passed section 3 of the Representation

(a) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 26.

(b) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 3.

(c) *Ante*, p. 136.

(d) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 61.

Repealed to the extent of this definition by Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 52.

(e) *Cook v. Humber* (1861), 11 C. B. (N.S.) 33.

(f) *Henrette v. Booth* (1863), 15 C. B. (N.S.) 500.

of the People Act, 1867 (*g*), dealing with a closely similar subject-matter, and had expressly enacted therein, by section 59, that both enactments were to be read together as one, an exceedingly difficult question arose as to whether a part of a dwelling-house though commonly called a house of itself was, or was not, a "dwelling-house" within the Act without a structural, or at least a practical, severance from the residue. This question arose in 1871 in the cases of *Thompson v. Ward*, *Ellis v. Burch* (*h*), and again, in 1874, in the case of *Boon v. Howard* (*i*), and the court was equally divided upon each occasion. But it is not now necessary to discuss the point at length, because it has been settled by section 5 of the Parliamentary and Municipal Registration Act, 1878, whereby it is enacted, amongst other things, that "in and for the purposes of the Representation of the People Act, 1867, the term 'dwelling-house' shall include any part of a house where that part is separately occupied as a dwelling," and that "for the purposes of any of the Acts referred to in this section (among which the Representation of the People Act, 1867, is included) where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part" (*k*), from which it is plain that structural severance is not necessary.

The tenement must be in existence as a dwelling-house during the whole of the required period of occupation, because a man cannot be said to be the inhabitant occupier of a house that does not exist. For instance, in Ireland it has been held that where the dwelling-house has been entirely pulled down, or burnt down and rebuilt during the qualifying period, and the occupier has lived elsewhere during the pulling down and rebuilding without claiming for successive occupation, he is not entitled to be registered (*l*). But since, as will be stated presently, the tenement need not be the same tenement throughout the whole of the qualifying period, the occupier in these cases of pulling down or rebuilding has the remedy in his own hands and can save his qualification by claiming for houses occupied in succession (*m*).

(*g*) 30 & 31 Vict. c. 102, s. 3.

(*h*) *Thompson v. Ward*, *Ellis v. Burch* (1871), L. R. 6 C. P. 327.

(*i*) *Boon v. Howard* (1874), L. R. 9 C. P. 277.

(*k*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 5.

(*l*) *Dempsey v. O'Malley* (1885), Lawson's Notes, p. 51; *McGoldrick v. Charlton* (1890), *ib.* p. 52; *Henderson v. Torish* (1891), *ib.* p. 53; *Mulkern v. Buchanan*, [1894] 2 L. R. 157 *n*.

(*m*) *Short v. Woods* (1891), Lawson's Notes, p. 52.

The tenement need not be the same tenement throughout the whole of the required period of occupation, for it is provided by section 26 of the Representation of the People Act, 1867, in accordance with the similar provisions of section 28 of the Reform Act, 1832 (*n*), that "different premises occupied in immediate succession by any person as owner or tenant during the twelve calendar months next previous to the last" (now altered by section 7 of the Parliamentary and Municipal Registration Act, 1878 (*o*), to the fifteenth) "day of July in any year shall, unless and except as herein is otherwise provided, have the same effect in qualifying such persons to vote as a continued occupation of the same premises in the manner herein provided" (*p*). And in a divided borough the occupation in immediate succession of different premises situated in different divisions of the borough is sufficient to qualify the occupiers for registration in the division in which the premises occupied by him at the end of his period of qualification are situated (*q*).

But where the same dwelling-house is not occupied throughout the whole of the qualifying period, there is a slight difference in the conditions as to rating and payment of rates (*r*).

There is no specific value required as in the case of the subject of a ten pounds occupation qualification, but of course, as a matter of fact, a dwelling-house can hardly be of no value whatever. In an Irish case, however, of *Owens v. Hanrahan*, decided in 1889, a dwelling-house was entered in a valuation book by the official valuer as "of no value," and the Irish Court of Appeal held that the occupier was not entitled to be registered in respect of it (*s*).

(2) **Occupation.**—The term "occupation," as already stated with reference to a ten pounds occupation qualification, signifies in law not only an exclusive, that is to say, a lawfully exclusive possession, but also the actual exercise in fact of the rights of a person lawfully entitled to exclusive possession. It must likewise be a separate occupation, because by section 5 of the Parliamentary and Municipal Registration Act, 1878, the tenement must be separately occupied as a dwelling.

(*n*) 2 & 3 Will. 4, c. 45, s. 28.

(*o*) 41 & 42 Vict. c. 26.

(*p*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 26.

(*q*) Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), s. 10. The principle of this section was extended by s. 17 of the same Act for the purpose of saving the rights of voters on the change of the place in which their qualification was situate from one Parliamentary constituency to another, by force of the Act. See *Down v. Steele* (1885), 55 L. J. Q. B. 36.

(*r*) *Ante*, p. 186.

(*s*) *Owens v. Hanrahan* (1889), 26 L. R. Ir. 418.



The period of occupation, by section 3 of the Representation of the People Act, 1867, as amended by section 7 of the Parliamentary and Municipal Registration Act, 1878, is required to be the fifteenth day of July in the year in which the occupier is to be registered and the twelve calendar months immediately preceding that date, making together the full period of a year and a day, up to and including July 15th.

For the present purpose, the meaning of the term occupation is confined to the actual exercise in fact of the rights of a person lawfully entitled to exclusive possession. It is sufficiently apparent from the description of the tenement as a "dwelling-house," and of the occupier as "an inhabitant occupier," that the actual right which must in fact be exercised is the right of inhabitancy. The common law meaning of the term "inhabitant" has already been considered with reference to reserved rights (*t*). At common law it may mean merely an occupier, or it may be restricted in its meaning to occupiers for a special purpose, viz., that of residence. The more restricted sense has been already stated to be apparently the proper meaning with regard to a personal franchise. It is clear from the use of the term "occupier" as coupled with the term "inhabitant" in the one phrase "inhabitant occupier," and from the description of the thing occupied as "a dwelling-house," that the term "inhabitant" is here used as equivalent to resident. The decisions on what is commonly called "the service franchise," to which attention will presently be called under the element of estate, have gone so far as to say that the mere use of a room for sleeping in may render a man the inhabitant occupier of that room as a dwelling-house, structural severance of the room not being necessary, as already stated, in order to constitute it a dwelling-house (*u*). But this is the extreme length to which the decisions have gone and they are not likely to be carried further. Following the common law in respect of inhabitancy in its more extended meaning, and following also the line taken by the decisions on the condition of residence required both in respect of reserved rights and of a ten pounds occupation qualification, the courts have held that an actual inhabitancy during every one of the days of the required period is not necessary, provided that the occupier retains during the whole of the required period both the power to return at any moment of that period without breach of legal obligation, and

(*t*) *Ante*, p. 122.

(*u*) *Stribling v. Halse* (1885). 16 Q. B. D. 246.

the intention to return after a merely temporary absence. But if the legal obligation, without breach of which the occupier cannot return, be merely a contract or licence, whereby the occupier has permitted his dwelling-house to be occupied as a furnished house for any part of the required period of occupation not exceeding four months by some other person, then, notwithstanding such legal obligation not to return, the occupier, if in other respects duly qualified, is entitled to be registered (*v*). This exception was engrafted by the House Occupiers Disqualification Removal Act, 1878, upon the general rule as laid down in the case of *Durant v. Carter*, decided in 1873. Again, a police officer, notwithstanding his temporary absence in the execution of his duty during a part of the qualifying period, not exceeding four consecutive months, is deemed an inhabitant occupier as tenant of his dwelling-house, if otherwise entitled to be registered in respect thereof (*x*). And it has been enacted more recently still that no person shall be disqualified from being registered in respect of his inhabitant occupation of a dwelling-house, by reason only that during part of the qualifying period not exceeding four months at any one time, he has in the performance of any duty arising from or incidental to any office service or employment held or undertaken by him, been absent from his dwelling-house (*y*).

In *Durant v. Carter*, decided in 1873, a clergyman inhabiting the rectory house of a certain parish as rector, obtained the licence of the bishop to be absent for eighteen months, subject to proper provision for a substitute. The bishop duly licensed a proper substitute, and required him to reside in the rectory house, which he did by permission of the rector, except as to three rooms, which were locked up for the use of the rector, who retained the key thereof, and ceased personally to inhabit the rectory house for eight months of the qualifying period in accordance with this arrangement. It was held that the rector was therefore not entitled to be registered (*z*).

Cases not falling within the exceptions above mentioned are subject to the general rule. In the case of *Ford v. Barnes*, decided in 1885, a battery sergeant-major in the Royal Artillery separately occupied one large room in the block of buildings known as the staff-sergeants' quarters in Topsham Barracks in the City of Exeter, by virtue of his office, and was absent on duty at Okehampton for

(*v*) House Occupiers Disqualification Removal Act, 1878 (41 & 42 Vict. c. 3).

(*x*) Police Disabilities Removal Act, 1887 (50 Vict. sess. 2, c. 9), s. 3.

(*y*) Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11).

(*z*) *Durant v. Carter* (1873), L. R. 9 C. P. 261.

twenty-one days during the required period of occupation, and could not return without leave without committing a breach of the legal obligation imposed upon him by the Queen's regulations, but during his absence he retained his own room and kept his furniture in it, and no other person used or occupied the said room. The court held that he was not entitled to be registered as an inhabitant occupier on the register of parliamentary voters for the City of Exeter (*a*).

In the cases of *Tanner v. Carter* and *Banks v. Mansell*, decided in the same year, the like decision was arrived at in the case of the undergraduates of the Universities of Oxford and Cambridge with regard to the occupation by them of chambers or premises in the colleges and halls of either university, for it is an implied part of the contract under which they occupy that they shall not occupy during the vacations, which extend over a period of nearly six months in every year, without the permission of the authorities, although they are allowed to keep their furniture and personal effects in their chambers during the vacations (*b*).

At the time of the passing of the Representation of the People Act, 1867 (*c*), there was another objection to the registration of any person in respect of the occupation of any chambers or premises in any of the colleges or halls of the Universities of Oxford and Cambridge, which was that it was expressly provided by section 78 of the Reform Act, 1832 (*d*), that nothing in that Act contained should entitle any person to vote in the election of members to serve in Parliament for the City of Oxford or town of Cambridge in respect of his occupation of any such chambers or premises, and the effect of section 56 of the Representation of the People Act, 1867, was to incorporate section 78 of the Reform Act, 1832, with the Act of 1867, there being nothing in the tenor of the later Act inconsistent with the application of the restriction contained in section 78 of the Reform Act, 1832, to the franchises created by the Representation of the People Act, 1867 (*e*). But section 78 of the Reform Act, 1832, although not affected by the Parliamentary and Municipal Registration Act, 1878 (*f*), is now repealed by section 15 of the Registration Act, 1885 (*g*).

In the case of *Spittall v. Brook*, decided in 1886, a married

(*a*) *Ford v. Barnes* (1885), 16 Q. B. D. 254. But see now the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11).

(*b*) *Tanner v. Carter*, *Banks v. Mansell* (1885), 16 Q. B. D. 231.

(*c*) 30 & 31 Vict. c. 102.

(*d*) 2 & 3 Will. 4, c. 45.

(*e*) *Barnes v. Peters* (1869), L. R. 4 C. P. 539.

(*f*) 41 & 42 Vict. c. 26, s. 43.

(*g*) 48 & 49 Vict. c. 15, s. 15.

non-commissioned officer of militia occupied rooms in the Orford Barracks, Warrington, in the south-eastern division of the county of Lancaster, by virtue of his office, and his family resided there with him. He was compulsorily absent on duty at Altcarr for twenty-seven days during the required period of occupation, but during his absence his rooms continued to be occupied by his furniture and family, and no other person used or occupied them. It was sought to distinguish the case from *Ford v. Barnes*, on the ground that he retained his inhabitancy by his family. The court held that the case was governed by the decision in *Ford v. Barnes*, and that he was not entitled to be registered (*h*). These cases were followed again in 1887 in the similar case of *Donoghue v. Brook* (*i*), and in Ireland the principle of these cases has also been held applicable to sailors in the cases of *Hassan v. Chambers* (*k*), *Duffy v. Chambers* and *Ferguson v. Black* (*l*). But all these cases would have been differently decided if they had arisen since the passing of the Electoral Disabilities Removal Act, 1891.

There is, however, another class of cases (chiefly Irish cases) illustrating the general rule, which are not affected by the Act of 1891, viz., where the absence of the occupier is not in the performance of any duty arising from or incidental to any office, service or employment, but is by compulsion of law independent of contract, as for instance where he is legally imprisoned, at least for the whole of an entire day.

In the case of *Donnelly v. Graham*, decided in 1888, the occupier was convicted of a criminal offence, and sentenced to fourteen days imprisonment, with the option of paying a fine, and not having availed himself of the alternative, underwent his term in gaol during the qualifying year. It was held that he was not entitled to be registered as a voter in respect of the inhabitant household franchise (*m*).

In the case of *Connolly v. Riddall*, decided in the same year, the occupier was charged before justices with a criminal offence, and was during the qualifying year remanded to gaol for a week, in consequence of his refusal to give bail for his re-appearance. At the expiration of the week he was brought before them again, when the charge against him was dismissed and he was discharged. It was held that having been proved innocent, the detention in gaol

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(*h*) *Spittall v. Brook* (1886), 18 Q. B. D. 426.

(*i*) *Donoghue v. Brook* (1887), 57 L. J. Q. B. 122.

(*k*) *Hassan v. Chambers* (1888), 24 L. R. Ir. 139.

(*l*) *Duffy v. Chambers*, *Ferguson v. Black* (1889), 26 L. R. Ir. 100.

(*m*) *Donnelly v. Graham* (1888), 24 L. R. Ir. 127.



did not operate as a break in his inhabitant occupancy of his dwelling-house, and that he was entitled to be registered as a voter in respect of the inhabitant household franchise (*n*).

In the case of *Martin v. Hanrahan* (No. 2), also decided in 1888, the occupier was brought before justices on a criminal charge, and remanded to gaol for two days during the qualifying year; upon being brought up again on the expiration of the two days, he either pleaded guilty or was convicted (it did not appear which), but, in the exercise of the bench's discretion, he was discharged. It was held that having been lawfully (as his guilt proved) detained in gaol during a portion of the qualifying year, there was a break in his inhabitant occupancy of his dwelling-house, and he was not entitled to be registered as a voter in respect of the inhabitant household franchise (*o*).

In the case of *Criglington v. Gallagher*, decided in 1889, the occupier was arrested during the qualifying year, and lodged in a police office on a charge of being drunk and disorderly in the public street. After a custody of some hours, on the day of his arrest, he was admitted to bail. He appeared before the magistrates on the next day and was convicted and fined, which fine he paid. It was held that his detention did not operate as a break in the inhabitant occupancy of his dwelling-house, and that he was entitled to the franchise (*p*).

In the case of *McCarron v. Chambers*, decided in 1890, the occupier was fined for being drunk and disorderly, and in default of payment sentenced to be imprisoned. The fine was not paid at the rising of the court, and he was taken to the waiting room of the gaol, and after twenty minutes the fine was paid, and he was discharged. It was held he was not disqualified from the franchise by such detention (*q*).

In the case of *Charlton v. Morris*, decided in 1894, Patrick Morris was arrested and remanded without bail to petty sessions. At petty sessions he was returned for trial (bail being accepted) to quarter sessions. His trial had not taken place at the time the revision sessions were held. It was held (FITZ-GIBBON, J. dissenting) that his innocence was to be presumed until his guilt was proved, and that he was not to be deprived of the franchise by his compulsory absence until his guilt was proved (*r*).

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(*n*) *Connolly v. Riddall* (1888), 24 L. R. Ir. 127.

(*o*) *Martin v. Hanrahan* (No. 2) (1888), 24 L. R. Ir. 127.

(*p*) *Criglington v. Gallagher* (1889), 26 L. R. Ir. 134.

(*q*) *McCarron v. Chambers* (1890), 28 L. R. Ir. 294.

(*r*) *Charlton v. Morris*, [1894] 2 L. R. 541.

In the case of *Holland v. Hagan*, decided in 1894, a voter was arrested and imprisoned, and the next day being brought before the magistrates and sentenced to imprisonment for fourteen days, with option of a fine, he paid the fine and was discharged. The period of his detention did not extend over the whole of one entire day. It was held that as the law will not take notice of fractions of a day, the voter was not to be deprived of the franchise by reason of his compulsory absence of portions only of two successive days (s).

The Scotch courts have, however, taken an entirely different view as to the effect of imprisonment. Thus, in the case of *Watt v. M'Guire*, decided in 1888, the occupier had been convicted of an assault and was sent to prison for four months. It was held that where a man occupied a dwelling-house as the ordinary habitation of himself and his family during the qualifying period, his compulsory absence in prison during a portion of that period did not interrupt the continuity of his inhabitancy, to the effect of preventing his acquiring a qualification to vote as an "inhabitant occupier" in the sense of the Representation of the People Acts, 1868 and 1884 (t).

It should be remembered that under the general rule absence need not be compulsory in order to disqualify, so long as the intention to return does not exist as well as the power.

For instance, in the Scotch case of *Stewart v. M'Fadzean*, decided in 1890, Stewart had for many years resided in Glasgow during eight or nine months of each year, and had also been tenant of a cottage in the county of Bute, where he used to reside for two or three months continuously in each summer and sometimes for a few days at other periods of the year. He never sub-let the cottage, but when not residing in it locked it up. And it was held that he was not entitled to be registered as an inhabitant occupier of the cottage (u).

Again in the Irish case of *Torish v. Henderson*, decided in 1893, Robert Henderson lived out of his house for six weeks of the qualifying period whilst it was being repaired, and during that time had the use of another house belonging to the same landlord and only paid rent for one house during that period, and at the end of the time went back again into his former house. He made no claim for successive occupation, and it was held that he was not entitled to be registered (x).

(s) *Holland v. Hagan*, [1894] 2 I. R.

(t) *Watt v. M'Guire* (1888), 16 Ct. Sess. Cas. 263.

(u) *Stewart v. M'Fadzean* (1890), 18 Ct. Sess. Cas. 4th ser. 347.

(x) *Torish v. Henderson*, [1894] 2 I. R. 155.

(3) **Estate.**—Thirdly, as to estate. Section 3 of the Representation of the People Act, 1867 (*y*), used precisely the same words as those used by section 27 of the Reform Act, 1832 (*z*), viz., “as owner or tenant,” and having regard therefore to that fact, and to the fact, as before remarked, that this Act deals with a closely similar subject-matter, and is by the terms of its section 59 to be read together as one with the Reform Act, 1832, the same interpretation has been put upon these words in this section as had been put upon them by the judges with reference to the ten pounds occupation qualification in the cases above cited (*ante*, p. 153). Some more recent cases decided with respect to the household qualification afford further illustrations of the principles there laid down.

For instance, that a tenancy at sufferance is a sufficient estate was decided in an Irish case of *Holland v. Chambers* (*O'Neill's case*) decided in 1894. There the tenant of a dwelling-house was served with notice to quit on January 20th, in the qualifying period, but held over until March 19th, and then removed to new premises and claimed for successive occupation of both sets of premises. In the meantime the landlord of the first set of premises had taken out a summons to recover possession of the premises first occupied and recovered judgment. And it was held that the tenant having been in possession as a tenant at sufferance from January 20th to March 19th, had had all the time a sufficient estate in the premises first occupied to make good his claim in respect of the premises into which he subsequently removed (*a*).

In the same way it had been decided in England that a tenancy at will is sufficient. In the case of *Mackay v. M'Guire*, decided in 1890, the facts were that one William Britton, a yearly tenant of a dwelling-house, was adjudicated bankrupt during the qualifying period, but he was never disturbed in his occupation of the dwelling-house by the landlord or anyone else during the remainder of the qualifying period, and for the residue of that period after the adjudication the landlord on the usual quarter days accepted the rent from him. On these facts it was held that Britton continued to occupy as tenant and was entitled to be registered in respect of the premises. His yearly tenancy no doubt vested in the trustee immediately on the adjudication, but he continued in occupation at first as a tenant at sufferance, and

(*y*) 30 & 31 Vict. c. 102, s. 3.

(*z*) 2 & 3 Will. 4, c. 45, s. 27.

(*a*) *Holland v. Chambers* (*O'Neill's case*) (1894), 29 Ir. L. T. 26.

afterwards on receipt of rent by the landlord as tenant at will, the effect of the receipt by the landlord of the rent for the quarter which included the day of adjudication being to create a tenancy at will from that day if not from the commencement of the quarter. But if the trustee in the bankruptcy had done anything to assert his right, the result might have been different (*b*).

On the other hand, in *Prentice v. Markham*, decided in 1892, it was held that the husband of a married woman who lived with her and assisted her in a business which she carried on in her own name in premises which she occupied as tenant and for which she paid the rates and taxes was not qualified as an inhabitant occupier of the premises because he had no estate in them (*c*). Again in an Irish case of *Clarke v. Buchanan (Dogherty's case)*, decided in 1886, a father allotted to his son a separate room in the dwelling-house of which the father was sole tenant and had control of the door and the rest of the house, but the son slept in and occupied separately and exclusively for his own purposes the room so allotted to him by his father, and it was held that the son was not qualified as an inhabitant occupier of the room because he had no estate in it (*d*).

The distinction between a lodger and a tenant was considered at great length by the Court of Appeal in three cases decided in 1881, the facts of these cases being as follows:—

In *Bradley v. Baylis* the claimant had occupied as his residence for the necessary period one unfurnished room in a dwelling-house, which room was rented by him from the lessee of the whole house, who held of the owners of the house at a yearly rent. The house comprised more rooms than that occupied by the claimant. The claimant had a right of access to and from the outer door, but the tenant of the entire house resided therein during the whole of the qualifying period and exercised a general control over the whole house, but rendered no service either by himself or by any servant, and it was held that the claimant occupied as a lodger, and not as a tenant (*e*).

In *Morfee v. Novis* the claimant was the occupier of two unfurnished rooms on the first floor of a house, using one as a bedroom and the other as a sitting-room, and in the latter he and his wife took their meals, the wife doing the cooking in the room. He took the rooms unfurnished at a weekly rent, and his landlord, who was the tenant of the whole house, which consisted of six

(*b*) *Mackay v. M'Guire*, [1891] 1 Q. B. 250.

(*c*) *Prentice v. Markham* (1892), 1 Fox & Smith 301.

(*d*) *Clarke v. Buchanan (Dogherty's case)* (1886), 20 L. R. Ir. 201.

(*e*) *Bradley v. Baylis* (1881), 8 Q. B. D. 195, 210.



rooms, resided in all the rest of his house. The claimant and his landlord each had a key of the outer door, and there was a wash-house attached to the house which they used in common. No attendance was supplied or service rendered by the landlord to the claimant, the wife of the latter doing the cleaning and all that was required for the occupation of the two rooms. It was held that the claimant occupied the two rooms as a lodger and not as a tenant (*f*).

In *Kirby v. Biffen*, the claimant occupied two unfurnished rooms in an eight-roomed house at a weekly rent and furnished them himself. The other rooms in the house were let out in a similar way to other persons by the landlord of the whole house. All these persons with the claimant had the common use of the passages, staircase, street door, and other usual conveniences of the house. The landlord did not reside in the house himself nor render any services to the claimant, or any other of the occupiers, he simply received his rents from them. It was held that the claimant occupied as a tenant and not as a lodger (*g*).

The following passage from the judgment of JESSEL, M.R., sets out the grounds of the decisions in perhaps the clearest light, by means of illustrations as follows:—

“First of all take the case of a *lodger*. It seems to me, as to unfurnished lodgings (and I will only deal with unfurnished lodgings, as it is the only class of cases with reference to which questions are likely to arise) where the owner of a house does not let the whole of it, but retains a part for his own residence, and resides there, and where he does not let out the passages, staircase and outer door, but gives to the ‘inmates’ (I use that term for my present purpose) merely a right of ingress and egress, and retains to himself the general control, with the right of interfering,—I do not mean an actual interference, but a right to interfere, a right to turn out trespassers and so on,—there I consider that such owner is the occupying tenant of the house, and the inmate, whether he has or has not the exclusive use of the room, is a *lodger*. That is one extreme case.

“Now I take another case, where the landlord lets out the whole of the house in separate apartments, and lets out each floor separately, so as to demise the passages, reserving simply to each inmate of the upper floors the right of ingress and egress over the lower, but parts entirely with the whole legal ownership for the term demised, and retains no control over the house; there, in my

(*f*) *Morice v. Norris* (1881), 8 Q. B. D. 200.

(*g*) *Kirby v. Biffen* (1881), 8 Q. B. D. 201.

opinion, the inmates are *occupying tenants*, and are capable of being rated as such. That is an extreme case on the other side.

"There will be an immense number of intermediate cases, which as I said before, can only be dealt with as they arise. Take such a case as the first of those before us. Does it make any difference that the inmates have latch-keys to the outer door, and also keys to the inner door? I think not, I think that they are still *lodgers* notwithstanding. Does it make any difference that the landlord does not reside there personally, but has resident servants, who occupy, on his behalf, part of the house? I think not, I think that the inmates are still *lodgers*. Does it make any difference that the landlord does or does not repair? I think not, they are still *lodgers*.

"On the other hand, suppose the landlord does not demise the whole of the house, but everything in it that can be demised, except the staircases and passages, etc., as to which he gives the inmates the right of ingress and egress, but exercises no control over and does not reside in the house,—I think the inmates are *occupying tenants*. Here again does the fact of the landlord repairing or paying rates and taxes make any difference? I think not. Of course he has a right to enter to make such repairs, but still, in my opinion, that does not prevent the occupier being in rateable occupation.

"I have given these illustrations, for the purpose of aiding those who have to consider these matters."

In *Hogan v. Sterrett*, a case decided in 1886, the law laid down in *Bradley v. Baylis*, and the cases decided therewith, was adopted by the Irish Court of Appeal, the court pointing out that the principle of those decisions had been adopted by the Legislature in the instructions appended to the form of requisition by overseers, requiring names of inhabitant occupiers, under section 9 sub-section (3) of Representation of the People Act, 1884, such instructions being at that time enacted by Schedule 2, Form (A) of the Registration Act, 1885, but now contained in Form (A) Schedules 2 and 3 of the Registration Order, 1895. The actual decision in *Hogan v. Sterrett* was that the fact that the landlord of the house let out in separate tenements lives in the house is a vital element to be considered in determining whether or not the occupiers of such tenements are lodgers or inhabitant householders, and by an all but universal rule will prevent them successfully claiming the franchise as inhabitant householders (*h*).

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(*h*) *Hogan v. Sterrett* (1886), 20 L. R. Ir. 344.

The rule laid down in *Bradley v. Baylis*, and the cases decided therewith, was again summarized by LORD KINNEAR in the Scotch case of *Bishop v. Duffy*, decided in 1894, as follows :—“ Where a house is let in unfurnished apartments, separately occupied by tenants, and their landlord does not reside in the house, and has no servants in the house to look after it for him, the tenants are not lodgers but householders ; whilst, on the other hand, where the landlord resides in the house, or has a servant in it to look after it for him, and retains to himself the general control as master of the house, he is to be considered the occupying tenant, and the other inmates as merely lodgers.”

The facts of the case were, that the tenant of a house consisting of three rooms let one room unfurnished to a sub-tenant, who furnished it and inhabited it, with his family. The only access to this room was through the other two rooms inhabited by the principal tenant, who had exclusive possession of the key of the house door. It was held that as the tenant had retained the control of access and egress by the house door, the sub-tenant was not entitled to the franchise as an inhabitant occupier of a separate dwelling (i).

Finally in the case of *M'Laughlin v. Chambers*, decided in 1895, the Irish Court of Appeal held that, where the revising barrister found as a fact that a person during the qualifying period separately occupied, as a separate dwelling-house, two rooms on a flat in a tenement house, and had the exclusive control of the said rooms and the use of the stairs, yard, etc., in common with the other inmates of the house, the fact that the landlord also resided in the house did not *per se* as a matter of law disfranchise that person : and that where the inmates of such a house are otherwise duly qualified, then in order to deprive them of the franchise as inhabitant householders, the landlord must so reside upon the premises as to retain his quality of master, reserving to himself a general control and dominion over the whole structure (j).

The following additional points have also been decided with reference to the household qualification : first, that if the inhabitant occupier occupy as owner, in virtue of a sufficient estate granted to him, the mere fact that the estate was granted to him from motives of charity does not prevent his occupation from being that of an owner as distinguished from that of a licensee for charitable objects. Such an owner is sufficiently independent and is qualified,

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(i) *Bishop v. Duffy* (1894), 22 Ct. Sess. Cas. 192.

(j) *M'Laughlin v. Chambers*, [1896] 2 I. R. 497.

provided that all other conditions are fulfilled. Secondly, that this decision must not be taken to overrule the decisions that one who occupies merely as an object of charity and as a member of a charitable corporation, not having himself an estate in the subject-matter of occupation as owner or tenant, is not qualified, but that proposition was expressly affirmed and followed. Thirdly, it has been decided that an occupation as tenant of part of a house is not necessarily determined by a determination, during the qualifying period, of the occupation by some other person of another part of the same house as tenant to the same landlord. And lastly, the principle of the cases of *Dobson v. Jones* and *Clark v. The Overseers of Bury St. Edmunds*, viz., that occupation as a servant when required for the purposes of the performance of the contract to serve is not an occupation as tenant, was expressly approved and followed. But this inference of law has now been, for the purposes of the household qualification, expressly altered by section 3 of the Representation of the People Act, 1884, whereby it is enacted that "where a man himself inhabits any dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service, or employment, he shall be deemed for the purposes of this Act and of the Representation of the People Acts to be an inhabitant occupier of such dwelling-house as tenant" (*k*). The qualification created by this section is commonly called the "service franchise."

The first point was decided in the case of *Fryer v. Bodenham* in 1869. In that case the facts were that John Fryer occupied one of a series of eleven houses known as Lord Coningsby's Hospital. This institution was founded in 1614 for eleven needy persons, who were called "servitors," but who performed no services. Each servitor was appointed by the owner of the Coningsby estate, and when appointed to one of the houses held it and a garden near it for his life, and could not be disturbed in his occupation by the owner of the Coningsby estate or by anyone else, except for a murder or a felony, or something of that kind. The servitors paid no rent, and clothes and coal and fixed payments in money were supplied to them out of the funds of the hospital, which were derived from the Coningsby estate. Rules had been originally made for the government of the occupants of the hospital, but these had become partly obsolete, and it appeared that the owner

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(*k*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 3.



of the Coningsby estate could do what he liked in regard to the rules, which had to be obeyed under penalty of a fine. None of the houses had ever been let by any of the persons appointed to them; but a garden outside the hospital and appertaining thereto, held by Fryer, had been let by him because he was too old to cultivate it himself. The court held that in effect the case stated that Fryer had an estate for life, and that on the authority of *Simpson v. Wilkinson* and *Roberts v. Percival*, above cited with reference to county voters, Fryer was owner and occupied as owner, and as such was entitled to be registered as a voter (*l*).

The second point, viz., that the above decision is distinguishable from the cases in which the occupation is merely as an object of charity, and not an occupation as owner of an estate, albeit granted from charitable motives, and those cases affirmed and followed, appears from the case of *Durant v. Kennett*, decided in 1869. In that case Edward Kennett was one of the seven Naval Knights of Windsor, a body corporate by Royal Charter of 1798. Each knight was nominated by the Crown from two lieutenants of the Royal Navy, chosen by the Lords Commissioners of the Admiralty, out of three names submitted to them by the Commissioners of the Royal Navy, and each knight occupied a house erected on land conveyed to the corporation for the ends and purposes of the institution. The knights were subject to the rules of the institution and might be expelled for repeated disobedience to them, or for marrying, or giving occasion of scandal, or upon conviction of felony. The court held on the authority of *Heath v. Haynes*, above cited, which was decided with reference to section 27 of the Reform Act, 1832, that the ownership of the house occupied by Kennett was in the corporation aggregate, that he did not therefore occupy as owner, but merely as an object of charity, like the Military Knights of Windsor in *Heartley v. Banks* (*ante*, p. 161), and was therefore not entitled to be registered.

Kennett did not claim to occupy as tenant, but WILLES, J., in his judgment, shows that if he had, the result would have been the same, because there was no tenancy created between the corporation aggregate and any of its members, each member merely occupying the house allotted to him during good behaviour (*m*).

Thirdly, the case of *Ancketill v. Baylis*, decided in 1882, shows that an occupation as tenant of part of a house is not necessarily determined by a determination, during the qualifying period, of

(*l*) *Fryer v. Bodenham* (1869), L. R. 4 C. P. 529.

(*m*) *Durant v. Kennett* (1869), L. R. 5 C. P. 262.

the occupation by some other person of another part of the same house as tenant to the same landlord. In that case one Roberts had occupied as his residence for the necessary period a room in a dwelling-house as sole tenant at a weekly rent. He had a right of ingress and egress by the stairs of the house, passage, and front door. He had a key to his room door, and also a key (one of several) to the front door of the house. All the other rooms in the house were let to other tenants by the same landlord in the same manner. During the qualifying period a tenant of another room in the same house relinquished the tenancy of such room, and gave up the key of the room and also his key of the front door to the landlord, who thereupon took the usual steps to obtain a new tenant of the vacated room, but did not actually reside during any portion of the qualifying period in the house or in any part of it, either himself or by any servant, or attempt to exercise or in fact have any control over it, except such control, if any, as may have been by law conferred upon him by reason of the vacation of the room by the outgoing tenant as before mentioned, and the delivery up to him as the landlord of the key of the outgoing tenant's room, and of the outgoing tenant's front door key. Objection was made to the name of Roberts being retained on the list of voters, on the ground that, on vacation of the other room by the other tenant and the delivery up by him of his keys as above mentioned, the landlord thereupon was *ipso facto* restored by law to such control over the house as to determine the occupation of his room by Roberts as tenant, and to make him for the rest of the qualifying period a mere lodger. But the court held that, although the landlord might have obtained control over that portion of the house which was so vacated by the outgoing tenant, he did not obtain control over the rest of it, and that the relation between him and Roberts remained unchanged, so that Roberts retained his right to be registered in respect of his occupation as an inhabitant occupier as tenant (*n*).

Lastly, the distinction drawn as to occupation by servants, etc., in *Hughes v. Chatham* (*o*), *Dobson v. Jones* (*p*), *Clark v. Bury St. Edmunds* (*q*), above cited, and decided with reference to the ten pounds occupation qualification as it existed previously to the Representation of the People Act, 1884, was approved and followed

(*n*) *Annetill v. Baylis* (1882), 10 Q. B. D. 577.

(*o*) *Hughes v. The Overseers of Chatham (Barton's case)* (1843), 5 M. & G. 54.

(*p*) *Dobson v. Jones* (1844) 5 M. & G. 112.

(*q*) *Clark v. The Overseers of Bury St. Edmunds* (1856), 1 C. B. (N.S.) 23.

in the case of *Fox v. Dalby*, decided in 1874. In that case a sergeant on the permanent staff of the Wiltshire Militia occupied a house in the borough of Devizes. This house, with others, was built by the justices of the county of Wiltshire, under the provisions of the Militia Law Amendment Act, 1854 (17 & 18 Vict. c. 105). The house stood in close proximity to the building in which the arms, accoutrements, and clothing of the Wiltshire Militia were stored. It was part of the duty of the sergeant to look to the clothing, arms, accoutrements, and stores required by the militia during the whole year. Upon his appointment, the house in question was assigned to him by the commanding officer of the regiment, and he was not allowed to exchange his quarters with any of the other sergeants living in similar houses without the leave of the commanding officer or adjutant. Every member of the permanent staff of the regular militia, when disembodied, was required by royal warrant to reside in such places as should be sanctioned by the Secretary of State for War. This house had been so sanctioned. By permission of the commanding officer the sergeant might have lived elsewhere. A certain sum was deducted from his weekly pay by way of rent for the house, which sum would not have been received by him if he had lived elsewhere, but he would, if billeted elsewhere, by reason of there being no house for his use, have received a small sum as lodging money. It was held that the sergeant did not, upon the authority of the cases above cited, occupy as tenant, because he was required to occupy for the purposes of his contract of service (r).

In 1884 the Legislature expressly altered, with respect to inhabitant occupiers, the inference of law established by the cases of *Dobson v. Jones*, *Clark v. Bury St. Edmunds*, and *Fox v. Dalby*, above cited, viz., that a person required to occupy in the performance of a contract to serve the owner of the subject-matter of occupation did not occupy "as tenant," by enacting in section 3 of the Representation of the People Act, 1884, that "where a man himself inhabits any dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service, or employment, he shall be deemed for the purposes of this Act, and of the Representation of the People Acts, to be an inhabitant occupier of such dwelling-house as tenant" (s).

This enactment, creating what is commonly called "the service

(r) *Fox v. Dalby* (1874), L. R. 10 C. P. 285.

(s) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 3.

franchise," has given rise to a great number of decisions which must be referred to at this point. It will be observed, however, that it did not really create a new kind of franchise. It was merely intended to alter in regard to the household qualification already existing the inference of law that a servant required to occupy, in order to the performance of his duties, a tenement belonging to his master did not occupy as tenant.

The tenement was the same as in the case of the existing household qualification, namely, a "dwelling-house," which term included, as already stated, any part of a house where that part is separately occupied as a dwelling, and "where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part."

In the case of *Stribling v. Halse*, decided in 1885, it was held that a room occupied solely as a bedroom might be a "dwelling-house" within the meaning of the Act (*t*). This decision, however, seems to have been founded on a misconception that a previous *dictum* of BRETT, L.J., in *Bradley v. Baylis*, decided in 1881, had been overruled, whereas it had not been overruled. What BRETT, L.J., there said (*u*) was as follows:—"If a person occupies two rooms which are not on the same floor, but are separated by a staircase which is not demised to him, and in one of those rooms he and his family sleep, and in the other he and his family live, it will, I think, be difficult to say whether he occupies any one room as a dwelling-house. You do not dwell in your bedroom; you do not dwell in your sitting-room: you dwell in the two rooms jointly; but where those two rooms are separated by a staircase which does not belong to you, I doubt myself whether you can be said to dwell in either of them." However, it was wrongly supposed in *Stribling v. Halse* that this doubt had been overruled, and so it was held that a room separately occupied as a bedroom only might be a "dwelling-house" of itself, although the occupier took his meals in another room in the same house not separately occupied by him. And this decision was followed with reluctance by the majority of the Court of Appeal in Ireland in *Hasson v. Chambers* (*v*), decided in 1885, a few days after the decision in *Stribling v. Halse*, although that case was effectively criticised by the minority consisting of

(*t*) *Stribling v. Halse* (1885), 16 Q. B. D. 246.

(*u*) 8 Q. B. D. at p. 233.

(*v*) *Hasson v. Chambers* (1885), 18 L. R. Ir. 68.



PORTER, M.R. and FITZGERALD, L.J. It was followed also in Scotland in the case of *Ballingal v. Menzies* (*w*), decided in 1886, although there again Lord KINNEAR expressed surprise at the decision; and it was again reluctantly followed by the Court of Appeal in Ireland in *Alexander v. Burke* (*x*) in 1887; and finally in the Scotch case of *Walshe v. Annan* (*y*), decided in 1892. But in *Barnett v. Hickmott* (*z*), decided in 1895, the Queen's Bench Division refused to extend the principle of the decision to a cubicle in a dormitory at a police barrack, and in *Clutterbuck v. Taylor* (*a*), decided in 1896, the Court of Appeal (RIGBY, L.J., dissenting), took the same view.

The result is that although the decision on this point in *Stribling v. Halse* was clearly wrong, it must be taken to be law, but will not be extended to cases where the facts are not precisely similar. For instance, in a Scotch case of *Campbell v. Morris*, decided in 1895, a coachman had the exclusive use and control of a room over the stable furnished as a bedroom, in which he kept his clothes and dressed, but he took his meals in the mansion-house occupied by his master, and slept there as caretaker. And it was held that he was not entitled to the franchise, because he did not inhabit the room over the stables, but the mansion-house, which was inhabited by the person under whom he served (*b*).

In *Barnett v. Hickmott*, decided in 1895, a policeman had the exclusive occupation, by virtue of his service, of a cubicle in a dormitory at a police barrack. The cubicle was separated from the rest of the dormitory which contained a number of similar cubicles by a partition seven feet high, but there was a space of five feet between the top of the partition and the ceiling. The policeman kept the key of his cubicle and was entitled to lock it up at any time. The passage between the cubicles, the ventilation, and the atmosphere of the dormitory were common to all the cubicles. It was assumed that "the dwelling-house" was not inhabited by any person under whom the policeman served. And it was held that the policeman was not entitled to be registered on the ground that the cubicle was not separately occupied by him as a dwelling (*c*).

(*w*) *Ballingal v. Menzies* (1886), 14 Ct. Sess. Cas. 4th ser. 127, see *post*, p. 217.

(*x*) *Alexander v. Burke* (1887), 22 L. R. Ir. 443, see *post*, p. 217.

(*y*) *Walshe v. Annan* (1892), 20 Ct. Sess. Cas. 4th ser. 83.

(*z*) *Barnett v. Hickmott*, (1895) 1 Q. B. 691.

(*a*) *Clutterbuck v. Taylor*, [1896] 1 Q. B. 395.

(*b*) *Campbell v. Morris* (1895), 23 Ct. Sess. Cas. 4th ser. 118.

(*c*) *Barnett v. Hickmott*, [1895] 1 Q. B. 691.

In *Clutterbuck v. Taylor*, decided in 1896, the facts as to the construction of the cubicle were similar, but it also appeared that the policeman was charged and paid rent for it; that a lavatory, mess-room, and recreation rooms were also provided for the joint use of the policemen occupying the cubicles; that the chief constable had absolute authority over the policemen in their use of the cubicles so as to be able to order them to change their cubicles, not to receive visitors, not to take meals in the cubicle, not to smoke there, not to have washing apparatus there, not to go there in the day-time, to open the door at any time so as to admit the inspector, and to give up the key; but, in point of fact, such authority had had not been exercised. It was held by the Court of Appeal (RIGBY, L.J., *diss.*), that the cubicle was not part of a house separately occupied as a dwelling, and therefore the occupier was not entitled to be registered (*d*).

The next point to be observed is that the inhabitancy must be by virtue of the office, service, or employment. This seems clearly to mean that the inhabitancy should be required in the performance of the duties of the office, service, or employment. In cases of mere permissive occupation by a servant by way of payment for his services and not under the contract in order to the performance of his duties, the servant may be said to occupy as tenant independently of the statute, as was held under section 27 of the Reform Act, 1832, in *Burton's case*, *Hughes v. The Overseers of Chatham*, *ante*, p. 163. Therefore, the aid of the enactment was only necessary where the servant was required to occupy in the performance of his contract to serve. There may be, of course, a permissive occupation by a person performing services as a servant which is not referable to the contract of employment at all, nor yet by way of payment for such services, so that the person does not occupy as tenant in any sense. For instance, in a Scotch case of *Aitchison v. Lothian*, decided in 1890, one John Aitchison worked as a farm servant upon his father's farm, but not under any definite contract of service for wages or other remuneration. He had the exclusive use, rent free, of a room in a cottage on the farm which was occupied by his grandmother, who paid no rent for it to the father. He took his meals with his father's family and received from his father what money he required from time to time. And it was held that he was not

entitled to the franchise because he did not occupy by virtue of service or as tenant, but merely as his father's son (*e*).

At this point it may be observed that inasmuch as the tenement need not under the ordinary household franchise be the same tenement during the whole of the qualifying period, and inasmuch as a service occupier is by the statute to be deemed to occupy as tenant, it follows that successive occupation of various premises during the qualifying period wholly by virtue of service, or partly by virtue of service and partly as an ordinary householder, is sufficient in order to entitle an occupier to be registered if he makes a proper successive claim. This was so decided first in Ireland in the case of *Torish v. Clark* (*Monaghan's case*), decided in 1885. The facts there were that Daniel Monaghan occupied, by virtue of service as a herd, a house on a farm belonging to his employer, in which house his employer did not reside, and during the qualifying period, Monaghan left that employment and took another house on another farm where he became a tenant paying rent. And in other cases heard with Monaghan's, the parties during the qualifying period inhabited two or more dwelling-houses in succession on different farms, each under a different employer, but each by virtue of service. And it was held that Monaghan and the others were entitled to the franchise (*f*). This decision has since been approved and followed in England in the case of *Nicholson v. Yeoman* in 1889, where the facts were similar (*g*).

The next point with regard to the service franchise is that the dwelling-house must not be inhabited by any person under whom the man serves in the office, service, or employment, by virtue of which he inhabits.

In the case of *Stribling v. Halse*, decided in 1885, to which attention has already been called, Lord COLERIDGE, C.J., was of opinion (*h*) that the expression "dwelling-house," used in the context, must mean something more than the "dwelling-house" which is to be inhabited by the tenant, because otherwise an absurdity would follow that the master and the servant were both inhabiting the same room. But it may be submitted that this argument is quite fallacious. For the whole context was simply

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(*e*) *Aitchison v. Lothian* (1890), 18 Ct. Sess. Cas. 4th ser. 337.

(*f*) *Torish v. Clark* (*Monaghan's case*) (1885), 18 L. R. Ir. 285.

(*g*) *Nicholson v. Yeoman* (1889), 24 Q. B. D. 145.

(*h*) 16 Q. B. D. at p. 250.

intended to exclude those cases where the premises in respect of which a qualification was claimed on the ground that they constituted a "dwelling-house," albeit only a single room in a house containing other rooms, were really inhabited by the master as part of the whole house, and kept under his direct and immediate personal control. A room in which a servant sleeps or eats in a house in which his master personally resides and under such control of the master is just as much inhabited by the master as any other part of the house. But a room occupied by a servant in a separate building belonging to the master in which the master himself does not personally reside so as to be able to exercise at all times a direct and immediate personal control is not inhabited by the master. This distinction is well illustrated in two Irish cases of *Crossan v. Chambers*, decided in 1885, and *Holly v. Burke*, decided in 1887.

In *Crossan v. Chambers*, decided in 1885, James Crossan, a coachman, occupied a room over the stable annexed to his employer's house, and was treated by her as a domestic servant. The stable was in her yard and was within the curtilage of her dwelling-house and was rated together with it. There was a separate gateway and gate from the yard into a back lane, and also a wicket leading from the yard into the lane. The gate and wicket formed the only access to the yard, except by going through the employer's house, and were under her control. Another of her servants cleaned out Crossan's room. It was held that Crossan was not entitled to the franchise (*i*).

In *Holly v. Burke*, decided in 1887, it was held, distinguishing *Crossan v. Chambers*, that a gardener was entitled to the franchise under the following circumstances. He occupied exclusively, during the qualifying period, a bedroom over a coach-house belonging to his master, in which bedroom he took his meals, which were prepared by his master's cook and sent to him from his master's house, the coach-house containing his master's carriages and being situate in a detached walled yard separated from his master's house by an avenue, but included in the grounds surrounding it (*j*).

But whether the view taken by Lord COLERIDGE, C.J., above cited, was correct or not, the "dwelling-house" must not be inhabited by any person under whom the occupier serves in the office, service, or employment, by virtue of which he inhabits. Now, the person who appoints the occupier to the office, service,

(*i*) *Crossan v. Chambers* (1885), 18 L. R. Ir. 68.

(*j*) *Holly v. Burke* (1887), 22 L. R. Ir. 463.



or employment, by virtue of which he inhabits, and who pays him in respect of the performance of his duties, and has power to dismiss him from such office, service, or employment, is clearly a person under whom the occupier serves in such office, service, or employment. But whether the person having such powers is the only person under whom the occupier serves within the meaning of the statute is a very different matter, and not at present settled by authority.

It has been determined in the case of *Atkinson v. Collard*, decided in 1885, and other cases heard at the same time, that an office, service, or employment, under or by the Crown, is within the statute. In those cases, the occupiers were non-commissioned and commissioned officers of the Regular Forces (*k*). This decision has been followed in the Scotch case of *Gay v. M'Gill*, decided in 1887 (*l*).

In the case of *Adams v. Ford*, decided in 1885, the master of a workhouse appointed, paid, and employed by the guardians of the poor, with power to report the occupier, who was an industrial trainer, also appointed, paid, and employed by the guardians, if the occupier was not in his room in the workhouse by nine o'clock in the evening, but having no power to suspend or dismiss the occupier, or in any other way to control or order him in and about the performance of his duties, was held not to be a person under whom the occupier served (*m*).

And in *Atkinson v. Collard*, decided in the same year, the occupier being a sergeant of cavalry, a non-commissioned officer of superior rank attached to the same dépôt was held not to be a person under whom the occupier served (*n*).

So also in *Lowry v. Collard*, decided at the same time, the occupier being a captain in a cavalry regiment, a major attached to the same dépôt at the same time was held not to be a person under whom the occupier served (*o*).

In the Irish case of *Alexander v. Burke*, decided in 1887, it was held that the resident principal of a college conducted by a religious educational community was not a person under whom the resident teachers of the college served in their office or employment as teachers, although they were under his disciplinary supervision and control. The teachers were themselves members

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(*k*) *Atkinson v. Collard* (1885), 16 Q. B. D. 254.

(*l*) *Gay v. M'Gill* (1887), 15 Ct. Sess. Cas. 4th ser. 90.

(*m*) *Adams v. Ford* (1885), 16 Q. B. D. 239.

(*n*) *Atkinson v. Collard* (1885), 16 Q. B. D. 254.

(*o*) *Lowry v. Collard* (1885); see *Atkinson v. Collard*, above cited.

of the community, and were not subject to removal by the resident principal, but only by the head of the community who lived in Paris (*p*).

In the Scotch case of *Philip v. Roxburgh*, decided in 1888, it was held that the resident tenant of a farmhouse and farm was a person under whom the manager of the farm, being a son of the resident tenant, served in his employment as manager (*q*).

In another Scotch case of *Falconer v. M'Guffie*, decided in 1891, a warehouse belonging to a firm of drapers consisted of a building of several floors, the ground floor being devoted to the business, whilst the upper floors were devoted to sitting-rooms and bedrooms for the firm's employés and servants. The manager occupied rooms on the second floor, and M'Guffie, who was employed by the firm as butler, occupied for his exclusive use a bedroom on an upper floor. The floors were all reached by a common stair. There was no other communication between the rooms occupied by the manager and that occupied by the butler. The manager was entrusted with the general supervision of all the domestic arrangements provided for the employés, and had power to dismiss the servants, including M'Guffie, the butler. It was held that the butler was entitled to be registered, because the premises he occupied were not inhabited by the manager, nor was the manager a person under whom he served in his employment as butler by the firm (*r*).

In another Scotch case of *Cruise v. Annan*, decided in 1892, a lay brother in a Roman Catholic mission had for his own exclusive use a bedroom in the mission-house. The head clergyman of the mission and other persons also resided in the mission-house. The lay brother performed the duties of an ordinary domestic servant, which were prescribed to him by the head clergyman. He was not appointed nor subject to dismissal by any person living in the house, but held himself bound as a servant to obey the orders of the head clergyman. And it was held that he was not entitled to be registered, because the house was inhabited by a person under whom he served, namely, the head clergyman (*s*). This is a remarkable case, because it is believed to be the first one in which it has been held that the person under whom the occupier serves may be a person who has

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(*p*) *Alexander v. Burke* (1887), 22 L. R. Ir. 443.

(*q*) *Philip v. Roxburgh* (1888), 16 Ct. Sess. Cas. 4th ser. 261.

(*r*) *Falconer v. M'Guffie* (1891), 19 Ct. Sess. Cas. 4th ser. 295.

(*s*) *Cruise v. Annan* (1892), 20 Ct. Sess. Cas. 4th ser. 79.

not appointed him and has no right to dismiss him, and does not pay him for his services.

In another Scotch case, the case of the Rev. Michael Monaghan, decided in 1894, the claimant was a Roman Catholic clergyman and a member of a religious community, called the Redemptorist Fathers, and had the exclusive use of a bedroom in a college held in trust for the community. When in actual residence he took his meals with the other resident fathers and their guests in the refectory of the college. He had various religious duties to perform, subject to the orders and directions of the resident rector of the college, who was also a member of the community, but the rector had no power to dismiss him. That could only be done by the head of the community resident in London. The claimant received no remuneration for his work, and there was no contract of employment of any kind amongst the members of the community. It was held that, even assuming that the claimant inhabited his bedroom as a dwelling-house by virtue of an office, service, or employment within the meaning of the Act, he was not entitled to be registered, because the college was inhabited by the person under whom he served in such office, service, or employment, namely, the resident rector (*t*).

The occupation is deemed to be exclusive of the person under whom the occupier serves, within the meaning of the section, notwithstanding that such person reserves a room in the house of which the tenement forms part, for the purposes of his business, or leaves a caretaker in it at night, to exercise a general control over it, or in fact, unless such person actually inhabits a part of it, and himself exercises a general control and dominion over the whole, as master over the house, so as to make the occupier a mere inmate.

In the case of *Adams v. Ford*, above cited (*ante*, p. 213), the guardians reserved a room in the workhouse, which they used as a board room. It was held that this did not disqualify the occupier, on the ground that the workhouse was inhabited by a person under whom he served, although the guardians were undoubtedly the persons under whom he served.

In *Stribling v. Halse*, decided in 1885, where the occupier was employed as a shop assistant, and in virtue of such employment inhabited solely one furnished bedroom in a house belonging to his employers, and the occupier also used, in common with others

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(*t*) *Case of the Rev. Michael Monaghan* (1894), 22 Ct. Sess. Cas. 195.

who resided in the house upon the same terms, a sitting or dining room, but the employers did not personally inhabit any part of the house, although they kept a caretaker resident therein to lock it up at night, and not, except under special circumstances, to admit the occupier or any one else after a certain hour, it was held that the room so inhabited by the occupier was a dwelling-house within the section, and that the house was not inhabited by the claimant's employers, so that the claimant was entitled to be registered in respect of his occupation (u).

The above case was followed by the Court of Appeal in Ireland in two cases of *Hasson v. Chambers*, and *Lynch v. Buchanan*, decided a few days afterwards, and was distinguished in the other Irish case of *Crossan v. Chambers*, already cited, heard at the same time. The Irish Court of Appeal was, however, divided as regards the two first mentioned cases, the majority of the court simply following without approving of the decision in *Stribling v. Halse*, and the minority, consisting of PORTER, M.R., and FITZGERALD, L.J., strongly dissenting from it (x).

These two cases were as follows :—In *Hasson v. Chambers*, John Hasson, a servant, occupied exclusively by virtue of his service a furnished bedroom in a public-house belonging to his master, the licensed owner, and had in common with another servant the use of a sitting-room in the same house. All the furniture belonged to the master, who did not reside in the house, but used it for the purposes of his business and had free access at all times to every portion of it except Hasson's bedroom, and had access to that also whenever he asked Hasson for the key, which he had a right to demand whenever he chose. The bedrooms were cleaned by a charwoman who was paid by the master and did not reside on the premises. It was held that Hasson was entitled to the franchise.

In *Lynch v. Buchanan*, one Richey was foreman of a shop and place of business in which a number of young men were employed. By virtue of that employment he and they lived in a separate house in which he had a bedroom that he occupied exclusively. He and the other young men took their meals in a common sitting-room, and the only other resident in the house was a servant paid by the employer to attend to the occupants. Richey had a latch key for the hall door, and had also charge of the other keys, and it was his duty to see that the doors were locked and the

(u) *Stribling v. Halse* (1885), 16 Q. B. D. 246.

(x) *Hasson v. Chambers*, *Crossan v. Chambers*, *Lynch v. Buchanan* (1885), 8 L. R. Ir. 68.



occupants within doors every night. And it was held that Richey was entitled to the franchise.

In 1886 the case of *Stribling v. Halse* was followed again in a Scotch case of *Ballingal v. Menzies*. There a clerk in the employment of a hydropathic company occupied as sole occupant a room in the building belonging to the company. No particular room was expressly stipulated for by him, but when he entered on his employment a room was given to him which he occupied for ten years, and part of its furniture belonged to him. He took no meals in this room but either in the servant's hall or in the reception room. The house-steward, to whose orders the clerk was subject, had a room in the building set apart for him, but usually resided in a separate house in the neighbouring village. Both the house-steward and clerk were subject to the orders of the manager who lived in an adjacent house. No director of the company resided in the building in which the clerk's room was. And it was held, on the authority of *Stribling v. Halse*, that the clerk was entitled to the franchise (*y*).

Then came two other Irish cases decided in 1887 on the same day. In these cases, known as the *French College case* and *St. Joseph's College case*, it was held, following *Stribling v. Halse* and *Hasson v. Chambers*, that certain teachers in a college conducted by a religious community were entitled to the franchise. Each teacher had during the qualifying period the exclusive use of a separate bedroom in the college by virtue of his office or employment. The college was managed by a resident principal under the supreme control of the head of the religious community who lived in Paris (*z*).

Where the occupation is not exclusive of the person under whom the occupier serves in his office, service, or employment, but the occupation is not by virtue of the office, service, or employment and the occupier pays rent to his employer, he may be entitled to be registered as a lodger (*a*).

## 2. CONDITIONS OF REGISTRATION.

**(1) and (2) Rating and Payment of Rates.**—The conditions as to rating and payment of rates (*b*) in respect of a household qualification are now substantially the same as the like conditions in respect of a ten pounds occupation qualification, subject to this one

(*y*) *Ballingal v. Menzies* (1886), 14 Ct. Sess. Cas. 4th ser. 127.

(*z*) *Alexander v. Burke* (1887), 22 L. R. Ir. 443.

(*a*) See *post*, p. 230.

(*b*) N.B.—Payment of assessed taxes is not required as a condition of registration in respect of a household qualification.

important difference,—that special provision is made in the case of a household qualification in order to prevent disfranchisement by reason of the qualifying premises not being rateable because they are Crown property or otherwise exempt. For it is enacted by section 9 (9) of the Representation of the People Act, 1884 (*c*), that where a man inhabits a dwelling-house in respect of which no person is rated by reason of such dwelling-house belonging to or being occupied by or on behalf of the Crown, or by reason of any other ground of exemption, such person shall not be disentitled to be registered as a voter and to vote, by reason only that no one is rated in respect of such dwelling-house, and that no rates are paid in respect of the same, and it shall be the duty of the person making out the rate book to enter any such dwelling-house as last aforesaid in the rate book together with the name of the inhabitant occupier thereof.

Special provision is also made with regard to the service franchise by sub-section (8) of the same section, which provides that where a man inhabits any dwelling-house by virtue of any office, service, or employment, and is deemed for the purposes of this Act and of the Representation of the People Acts to be an inhabitant occupier of such dwelling-house as a tenant, and another person is rated or liable to be rated for such dwelling-house, the rating of such other person shall for the purposes of this Act and the Representation of the People Acts be deemed to be that of the inhabitant occupier.

Section 75 of the Parliamentary Registration Act, 1843 (*d*), as to inaccuracies, and section 30 of the Reform Act, 1832 (*e*), as to making claim to be rated, apply to the conditions as to rating and payment of rates under section 3 of the Representation of the People Act, 1867 (*f*), by virtue of sections 56 and 59 of that Act equally as they apply to the like conditions under section 27 of the Reform Act, 1832 (*g*), therefore the same three alternative methods of fulfilling these conditions under the later Act hold good to the same extent as already discussed in regard to the like conditions in respect of a ten pounds occupation qualification (*h*).

As originally imposed by section 3 of the Representation of the People Act, 1867, these conditions were worded in slightly different terms from the terms used in imposing the like con-

(*c*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 9.

(*d*) 6 & 7 Vict. c. 18.

(*e*) 2 & 3 Will. 4, c. 45.

(*f*) 30 & 31 Vict. c. 102.

(*g*) 2 & 3 Will. 4, c. 45.

(*h*) *Ante*, p. 168.

ditions in respect of a ten pounds occupation qualification under section 27 of the Reform Act, 1832.

The exact words of section 3 of the Representation of the People Act, 1867, with reference to these conditions, were that the inhabitant occupier should be entitled to be registered, if he were qualified in this respect as follows, that is to say, if he "has during the time of such occupation been rated as an ordinary occupier in respect of the premises so occupied by him within the borough to all rates (if any) made for the relief of the poor in respect of such premises; and has on or before July 20th in the same year *bonâ fide* paid an equal amount in the pound to that payable by other ordinary occupiers in respect of all poor rates that have become payable by him in respect of the said premises up to the preceding January 5th." Here, in addition to the total omission of any mention of assessed taxes, the primary difference between these provisions and the provisions of section 27 of the Reform Act (*i*), consists in the introduction into the third paragraph of the section of the words "as an ordinary occupier," and the corresponding variation in the terms of the fourth paragraph which requires payment of "an equal amount in the pound to that payable by other ordinary occupiers." These phrases were inserted with reference to an alteration in the law of rating which was effected by section 7 of the same Act. Previously to the passing of the Representation of the People Act, 1867 (*k*), in the case of premises of small rateable value the owner might be rated instead of the occupier, under the provisions of the Poor Relief Act, 1819 (*l*), and the Small Tenements Act, 1850 (*m*), or similar local Acts, and might compound for the rates at a smaller amount than an ordinary occupier would, if rated as an ordinary occupier, be liable to pay. But by section 7 of the Representation of the People Act, 1867 (*k*), the occupier was to be rated, and not the owner, in all cases except where the dwelling-house or tenement was wholly let out in apartments or lodgings not separately rated, that is to say, not separately rated at the date of the passing of the Act, according to the decision in *Stamper v. The Overseers of Sunderland* (*n*). And by section 61 of the Act the term "dwelling-house" was to include any part of a house occupied as a separate dwelling, and separately rated to the relief of the poor.

(*i*) 2 & 3 Will. 4, c. 45.

(*k*) 30 & 31 Vict. c. 102.

(*n*) *Stamper v. The Overseers of Sunderland* (1868), L. R. 3 C. P. 388; see also *Boon v. Howard* (1874), L. R. 9 C. P. 277.

(*l*) 59 Geo. 3, c. 12, s. 19.

(*m*) 13 & 14 Vict. c. 99.

However, two years later, by sections 3 and 4 of the Poor Rate Assessment and Collection Act, 1869 (*o*), it was provided that in the case of rateable hereditaments under a certain value the owners might agree to become liable to pay the rates and be allowed a commission, or the vestry might order the owner of such hereditaments, being dwelling-houses, to be rated instead of the occupier; and after such order certain abatements were to be allowed, which were to be larger in case the owner was willing to be rated and gave notice in writing to the overseers to that effect, than if the owner was rated without giving such notice; and by section 7 of the same Act (*o*) every payment of a rate by the owner, whether he is himself rated instead of the occupier, or has agreed with the occupier or with the overseers to pay such rate, and notwithstanding any allowance or deduction which the overseers are empowered to make from the rate, shall be deemed a payment of the full rate by the occupier for the purpose of any qualification or franchise which as regards rating depends upon the payment of the poor rate. But in the case of *Bennett v. Atkins*, decided in 1878, where the owner, being rated under an order by the vestry, had not given notice in writing to the overseers that he was willing to be so rated, and yet had been allowed the larger abatement, it was held that the occupier had not fulfilled the condition of having paid an equal amount in the pound to that payable by other ordinary occupiers, and was therefore not entitled to be registered (*p*). This case led to the passing of the Assessed Rates Act, 1879 (*q*), whereby it is enacted that no qualification depending upon rating shall be defeated by reason of an allowance or deduction made or purporting to be made under the provisions of the Poor Rate Assessment and Collection Act, 1869 (*r*), not having been made properly and formally; and such allowance or deduction shall, for the purposes of every such qualification, be deemed to have been duly made.

In cases where the owner is rated instead of the occupier and pays a composition, such payment is not equivalent to a payment by the occupier of the full amount payable by other ordinary occupiers, if the overseers had no legal authority to rate the owner and the composition was one which the overseers had no power at all to make. In such case the Assessed Rates Act, 1879 (*q*), does not help the occupier, because it only aids formal defects in the making of allowances by the overseers where they have lawful authority to rate the owners. The only reported

(*o*) 32 & 33 Vict. c. 41.

(*p*) *Bennett v. Atkins* (1878), 4 C. P. D. 80.

(*q*) 42 Vict. c. 10.

(*r*) 32 & 33 Vict. c. 41.



case, however, is of earlier date than that Act. This was the case of *Durant v. Withers*, decided in 1873, in which case the occupier agreed with his landlord that he should pay the rates. A rate was made during the qualifying period, and the landlord was assessed at a composition, being two shillings less than the full amount payable by an ordinary occupier. This sum was duly paid by him, and afterwards it was discovered that by section 23 of the Poor Relief Act, 1819 (*s*), the overseers had no power or authority to assess the landlord not being the occupier of any house in which the right of voting depended on the assessment of the voter to the poor rates. The landlord therefore, after July 20th, paid the other two shillings in order to make up the full amount of the rate. It was held that the occupier was not entitled to be registered (*t*).

One result of these enactments relating to the rating of owners instead of occupiers was that that part of the definition of a "dwelling-house" contained in section 61 of the Representation of the People Act, 1867 (*u*), which required that it should be "separately rated to the relief of the poor," might have been very difficult to apply in cases where the owner was rated instead of the occupier. That part of the definition, therefore, was got rid of by being altogether omitted when the term "dwelling-house" was re-defined by section 5 of the Parliamentary and Municipal Registration Act, 1878 (*x*); and so in the case of *Kirby v. Biffen*, decided in 1881, where two rooms on the first floor of a house were not separately rated, nor was the name of the occupier, who occupied as tenant during the qualifying year, entered in the occupiers' column of the rate book, but the landlord was rated in respect of the whole house, and had paid all the rates, it was held that the occupier was entitled to be registered (*y*).

In other respects the conditions as to rating and payment of rates in respect of a household qualification are not dissimilar to the conditions as to rating and payment of rates in respect of a ten pounds occupation qualification in relation to which the several enactments and cases have been already considered (*z*).

### 3. JOINT OCCUPATION.

By the proviso to section 3 of the Representation of the People Act, 1867, it is enacted that no man shall under this section be entitled to be registered as a voter by reason of his being a joint

(*s*) 59 Geo. 3, c. 12.

(*t*) *Durant v. Withers* (1873), L. R. 9 C. P. 257.

(*y*) *Kirby v. Biffen* (1881), 8 Q. B. D. 201.

(*u*) 30 & 31 Viet. c. 102.

(*x*) 41 & 42 Viet. c. 26.

(*z*) *Aute*, pp. 168—186.

occupier of any dwelling-house (*a*), and this has been held only to extend to the case of joint occupiers as owners or tenants, for the section only deals with those who occupy jointly as such. So that if part of the dwelling-house is occupied by a lodger or lodgers, the inhabitant occupier as owner or tenant is not disqualified under this proviso, but may be registered under this section, and the lodger or lodgers may be registered under the Acts conferring the lodger franchise if they are properly qualified.

For instance, in the case of *Brewer v. M'Gowen*, decided in 1869, it appeared that the inhabitant occupier of a dwelling-house had during three months of the qualifying period let a furnished bedroom in his house, as a sleeping apartment, to a lodger, who had also the joint use of another apartment as a sitting-room, with board provided for a fixed weekly sum, but the lodger was not in any way responsible for the rent or rates, and his contract might have at any time been terminated on one week's notice given by either party. The court held, reversing the decision of the revising barrister, that such lodger was not a joint occupier of the dwelling-house in question within the meaning of the proviso to the section (*b*).

The same principle applies where the occupier permits another person to reside with him not as a lodger but merely as a licensee guest or inmate or member of his family, notwithstanding the fact that such other person may even to the knowledge of the occupier have been rated as a joint occupier with him, although, of course, that affords strong ground for supposing that the parties are in fact joint occupiers (*c*). In other words, joint rating is not conclusive evidence of joint occupation.

And the same principle applies also where another person has an incorporeal right to reside on the premises but no estate in them. For instance, in *Torish v. Love* (an Irish case, decided in 1893), a father by will devised to his son, his house and farm, but the will provided that the testator's widow was to remain in the house whilst the son remained single. And it was held that the son was nevertheless the sole occupier and entitled to be registered as such (*d*). But a case of this kind must be carefully distinguished from cases where the words of a will create an estate by amounting to an absolute devise of a particular room

(*a*) 30 & 31 Vict. c. 102, s. 3.

(*b*) *Brewer v. M'Gowen* (1869), L. R. 5 C. P. 239.

(*c*) *Campbell v. Chambers* (*Richie Gallagher's case*), 20 L. R. Ir. 239.

(*d*) *Torish v. Love*, [1894] 2 I. R. 372.

in the house to live in, as in the case of *Torish v. Brown*, another Irish case, decided in the same year, where the testator devised his farm and house to his son, but added "I give this room to my wife as a dwelling-house," and finally directed that his widow, son, and daughter were all to live together and manage as before. There it was held that the widow was a joint occupier (e).

There may, however, be a joint ownership but a separate occupation, and in that case the occupier, although in occupation under a joint title, is entitled to the franchise because he occupies separately. For instance, in *Torish v. Clark (Starr's case)*, decided in Ireland in 1885, it was proved that John Starr and Daniel Starr, brothers, were joint tenants of houses and lands, but that each of them lived in a separate house on the lands, and the houses were separately rated. The brothers worked one portion of the lands jointly, and the remainder each for himself. The rent was a single rent, both names appearing on the receipts. It was held that each of the brothers was entitled to the franchise (f). But the principle of this case has not been extended to cases where the subject of joint ownership is a single dwelling-house. For, in *Alexander v. Burke (Mount Argus case)*, decided in Ireland in 1887, it was held that joint owners of a dwelling-house cannot by separate occupation of different bedrooms therein, individually acquire, each for himself in respect of his own bedroom, the franchise as an inhabitant occupier (g).

There is a class of cases which have come before the courts in Ireland that ought to be noticed here. Where a person dies intestate leaving several next-of-kin, then, according to the doctrine of *Cooper v. Cooper* (h), as regards the substantial title to his personal property, including chattels real, such as an estate for years, the right of the next-of-kin to that estate *in specie* (subject only to the claims of creditors) is complete. Consequently where several next-of-kin of an occupier who has died intestate continue together in actual occupation they ought to be regarded as joint occupiers. The mere fact that the landlord has accepted one of them as his tenant does not constitute that one sole occupier, unless the interests of the others have been released by their own consent, or otherwise legally determined.

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(e) *Torish v. Brown*, [1894] 2 I. R. 373 n.

(f) *Torish v. Clark (Starr's case)* (1885), 18 L. R. Ir. 289.

(g) *Alexander v. Burke (Mount Argus case)* (1887), 22 L. R. Ir. 458.

(h) *Cooper v. Cooper* (1874), L. R. 7 H. L. 55.

In *Smyth v. Chambers*, decided in 1885, the tenant of a house in a town died intestate, leaving a widow and three sons, one of whom was in Australia, and the other two and the widow lived on in the house, and the elder of these two sons got his name put on the rate book with the consent of the widow and his younger brother (who was a minor), and it was held that this son was not the sole occupier, and, therefore, not entitled to be registered (*i*).

In *Simpson v. Hanrahan*, decided in 1892, a tenant died intestate, leaving a widow, three sons, and three daughters, who all lived together on his farm. The widow paid the rent and obtained receipts in her own name until 1886. In that year one of the three sons paid the rent and got a receipt in his own name, and afterwards continued to pay the rent year by year and to obtain receipts in his own name, and claimed to be registered as sole occupier. At the time he claimed to be registered, only his mother and one sister were living in the house with him, and no proof being given that either of them assented to the claimant being made sole tenant, his claim was disallowed (*k*).

In *Gormley v. Buchanan*, decided in 1893, Peter Gormley's father had been tenant from year to year of the premises for which Peter claimed to be registered, but he had died intestate before the commencement of the qualifying year, leaving his widow and the claimant as his sole next-of kin. The widow and the claimant continued to live on the farm during the qualifying period, and the claimant had been accepted by the landlord as tenant on his father's death. On these facts being proved, the revising barrister adjourned the case for the attendance of the widow to prove that she had released her claim. She did not attend and the claim was not allowed, and the decision of the revising barrister was affirmed by the Court of Appeal (*diss.* FITZ-GIBBON, L.J.) (*l*).

The case of *Brown v. Buchanan*, decided on the same day, is not for English purposes distinguishable on the facts in any point from *Gormley v. Buchanan*, except that the claimant swore that he was accepted as tenant with his mother's consent, but the revising barrister did not believe him, and as she was not called, he disallowed the claim, and his decision was upheld (*m*). But in this case FITZ-GIBBON, L.J., gave at length his reasons for

(*i*) *Smyth v. Chambers* (1885), Lawson's Notes, p. 83.

(*k*) *Simpson v. Hanrahan* (1892), Lawson's Notes, p. 96.

(*l*) *Gormley v. Buchanan*, [1894] 2 I. R. 299.

(*m*) *Brown v. Buchanan*, [1894] 2 I. R. 318.



dissenting from the judgments in this case and the cases of *Gormley v. Buchanan*, *supra*, and *Thompson v. Buchanan*, *infra*. In his opinion the question raised by the cases as stated was, "Does the tenant and rated occupier of qualifying premises lose the franchise upon proof of the bare fact that some one else lives on the premises who appears *prima facie* to have an equitable claim upon the assets of a deceased former tenant, though there is no evidence to show that that person has made any claim?" And then the learned Lord Justice stated that in his opinion such a position was untenable, chiefly on the authority of *M'Loughlin's case* (n), and the proposition of law for which that case is cited in Rogers on Elections, viz., that "if a person occupy under a claim of title or right it will be sufficient, for no investigation can be made into conflicting claims of title."

In *Arbuckle v. Buchanan*, also decided on the same day, the facts were practically the same, and FITZ-GIBBON, L.J., assented to the decision that the claimant was not entitled to the franchise, because the revising barrister specially found as a fact that one at least of the next-of-kin of the deceased tenant, besides the claimant, was in actual occupation jointly with the claimant as a joint occupier (o).

The case of *Thompson v. Buchanan*, decided on the same day, was practically indistinguishable from *Gormley v. Buchanan*, and that case was followed, FITZ-GIBBON, L.J., again dissenting (p).

All these cases, however, must be carefully distinguished from the case of *M'Keever v. Buchanan*, decided together with them. In that case the Court of Appeal in Ireland decided that the doctrine of *Cooper v. Cooper*, *supra*, did not extend to premises bought out of the assets of the deceased tenant but not being his original holding. The facts there were that the tenant of a farm had died intestate many years before, leaving a widow, a son, and a daughter. The widow sold the farm and bought another with the money realized by the sale, and on the farm so bought, she and her son and her daughter continued to reside. The agreement of tenancy for the new farm was in the son's name, the widow having returned his name to the landlord some years previously and the landlord having accepted him as tenant. The son claimed as inhabitant occupier of the farm. The mother gave evidence and swore that she had no claim on the farm, but

(n) Ale. R. C. R. 249.

(o) *Arbuckle v. Buchanan*, [1894] 2 I. R. 339.

(p) *Thompson v. Buchanan*, [1894] 2 I. R. 365.

that she "was to get her support there." It was held that the son was entitled to the franchise, on the ground that whatever right his sister might have to trace the assets of her father and establish a claim in respect of them against the newly-purchased holding by proceedings in a court of equity, she had no specific interest within the doctrine of *Cooper v. Cooper, supra*, in the new holding that was purchased by the proceeds of the sale of the farm which had been held by the father (q).

#### IV.—LODGERS.

*A person entitled to be registered as a parliamentary elector in a borough in respect of a lodger qualification—*

- (A.) *Must have claimed to be registered (r); and*
- (B.) *Must have occupied separately as a lodger for the whole twelve months immediately preceding the fifteenth of July (s) in the year in which he is to be registered, lodgings, being part of one and the same dwelling-house (t) within the borough, and being of a clear yearly value, if let unfurnished, of ten pounds or upwards (u); and*
- (C.) *Must have resided in such lodgings during the said twelve months (u);*

*If two or more persons are joint lodgers, and the value of the lodgings is such as to give ten pounds or more for each lodger, two of such persons, but no more, are entitled to be registered as electors (x).*

*If a person has occupied different lodgings of the requisite value in the same house in immediate succession, he is entitled to be registered as an elector in respect of the occupation thereof (y).*

The substance of the lodger qualification is different to any ever before permitted to confer the right to vote under any conditions. The substance of every previous qualification to which the right to vote was incident under certain conditions was in every case of such a kind that the party, if wrongfully ousted, could by law recover possession, and not merely damages. Even in the case of persons voting in right of membership of the

(q) *M'Keever v. Buchanan*, [1894] 2 I. R. 312.

(r) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 4.

(s) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7.

(t) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 4; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 5.

(u) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 4.

(c) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 6.

(y) *Id.* s. 5.

body corporate of a borough, there was a remedy by *mandamus* for wrongful ouster from their freedom as well as a remedy in damages for wrongful interference with the exercise of the rights incident to freedom (z). The substance of the lodger qualification, however, is a merely personal contractual right, the violation of which the law considers can be sufficiently compensated in damages without undertaking to put the lodger back again, if wrongfully ejected, into possession of his lodgings.

The description in the Representation of the People Act, 1867, of the nature of a lodger's occupation as that of "a sole tenant" does not mean that he must have an estate, or at least a chattel interest, in the subject-matter of the occupation. The legal notion of an estate or chattel interest in real estate, subject to such reservations as the law permits, includes the idea of the right to exclusive user. That is not, however, the idea sought to be conveyed by the use of these words "as sole tenant." They are unfortunately used in the vulgar meaning, entirely apart from the proper legal technical meaning which they have borne for centuries, and in this context are not opposed to the legal notion of a joint tenancy or joint interest in a term in real estate, but to user by more than one individual under the terms of a personal contract. But now by section 6 of the Parliamentary and Municipal Registration Act, 1878, the law has been altered so as to admit joint lodgers to the franchise, if the lodgings are of the value of ten pounds or more for each lodger.

The qualification of a lodger may be conveniently discussed in somewhat similar fashion to the ten pounds occupation and house hold qualifications. The qualification may be said to consist of

1. FOUR ELEMENTS OF QUALIFICATION (p. 227), (1) lodgings, (2) value, (3) occupation, and (4) contract. A person possessed of such a qualification may be registered as a voter in respect of it if he has also fulfilled
2. TWO CONDITIONS OF REGISTRATION (p. 233), (1) residence, and (2) making of claim.

Lastly will be considered the case of

### 3. JOINT LODGERS.

#### 1. FOUR ELEMENTS OF QUALIFICATION.

(1) **Contract.**—It is more convenient to commence with the element of contract. The question, What is a lodger? was much discussed in 1881 in the case of *Bradley v. Baylis* (a), and the other

(z) See *R. v. Mayor of Monmouth* (1870), L. R. 5 Q. B. 251.

(a) *Bradley v. Baylis* (1881), 8 Q. B. D. 195.

two cases which were governed by the judgment delivered in that case. But none of the judges very clearly point out that the essential legal distinction between a lodger and all the various other kinds of persons admitted to the franchise in either counties or boroughs consists in this, that the lodger is a person whose rights are primarily, as Roman lawyers would say, *in personam*, and every other kind of voter must have a right *in rem*, generally to some property of an immovable character. It is the incidence of the franchise to a purely personal contractual right, exercised for a stated period in a stated manner over immovable property belonging to the other party to the contract, that constitutes the peculiarity of the lodger qualification. In the subsequent case of *Anketill v. Baylis*, decided in 1882, this is clearly brought out by Lord Justice LINDLEY, who there says, "As I have before intimated, in my opinion the term 'lodger' implies a personal relation existing between the lodger and his landlord" (*b*). But the judgment of his lordship in *Bradley v. Baylis* at any rate did not put the point so simply and directly. The difficulty in distinguishing the lodger from the inhabitant occupier as tenant of part of a dwelling-house arises from the fact that the part of the dwelling-house may be of exactly the same character in all respects with regard to each, and that the legal relation between landlord and lodger and landlord and tenant (that is, tenant in the legal sense) may be created in each case by words only, and not by any particular formal words, so long as they are sufficient to explain the intent of the parties (*c*). In every case you must get back to the facts of the agreement between the persons actually using the rooms and the person who receives for his own benefit the money paid for the use of them. If the agreement is that the one is to have the use of the rooms, subject to the general power of control and dominion of the house by the other, then the case is one of landlord and lodger. If the agreement is that the one is to have the rooms absolutely free from the control or interference of the other, then the case is one of landlord and tenant. The results of the difference in the nature of the right are very various, and frequently, as a matter of practice, the nature of the right intended

(*b*) *Anketill v. Baylis* (1882), 10 Q. B. D. 587. In *Hogan v. Sterrett* (1886), 20 L. R. Ir. at p. 348, this dictum is doubted by PORTER, M.R., but it is clear that he did not understand the sense in which the expression "personal relation" was used, namely, as implying an obligation *in personam*, as distinguished from a right *in rem*. In *Morfee v. Norris*, the personal relation between Morfee and Cousin, his landlord, was that created by the contract between them.

(*c*) BAC. AB. Tit. Leases, K. ; *Curling v. Mills* (1843), 6 M. & G. 173.



to be created can be judged by the consequences. For instance, a tenant occupier is rateable because he has an exclusive right of property in the tenement, but a lodger is not rateable because he has no such right (*d*). At the same time the mere fact that a person who is a lodger has claimed to be rated does not prove him to be a tenant occupier (*e*). A tenant occupier, unless expressly restrained by the terms of the contract, can dispose of his interest in the premises, and the landlord cannot turn out his assignee except for breach of such of the terms of the original letting as by law bind the assignee (*f*). But a lodger cannot force the landlord to accept some other person in his room who is willing to pay the rent and observe the terms of the original contract. A tenant may maintain an action of trespass or ejectment against a stranger (*g*), but a lodger cannot recover against a stranger merely for intruding upon his privacy (*h*). A tenant might justify using sufficient force to eject a trespasser (*i*), a lodger could not justify turning out an intruder (*k*). A tenant might have an action of trespass or ejectment against his landlord, unless the entry of the landlord was under some express reservation in the original contract, and did not exceed the limits of that reservation (*l*). But a lodger could not complain if his landlord, even without any express stipulation in the original contract, entered his rooms in order to put out a stranger making a disturbance, or for any reasonable exercise of control over what remains the landlord's house, notwithstanding the contract. Even if the landlord turned the lodger out without notice and for no good reason, the only remedy of the lodger would be in damages, and not to recover possession (*m*).

There must, therefore, be in all cases a contract creating a personal relation between the landlord and the lodger, but not passing any right of property in the premises to the lodger. The landlord must retain under the contract a general power of control and dominion over the premises which are the subject of the contract ;

(*d*) *Cp. per* Lord HATHERLEY in *Cory v. Bristow* (1877), 2 App. Cas. 276.

(*e*) *Hains v. Cuthbertson* (1868), L. R. 4 C. P. 528 *n.* And see *per* BOVILL, C.J., in *Cross v. Alsop* (1870), L. R. 6 C. P. on p. 319. In Ireland it is especially enacted by s. 35 of the Registration (Ireland) Act, 1868 (31 & 32 Vict. c. 112), that no person duly rated as occupier of any house or premises shall be registered as a lodger therein. See also *Campbell v. Chambers (Simpson's case)* (1886), 20 L. R. Ir. 284.

(*f*) As to which see Com. Dig. Covenant C. (3).

(*g*) Com. Dig. Trespass B. (1) and (2), Ejectment A.

(*h*) See *Wright v. Starvert* (1859), 2 E. & E. 721.

(*i*) *Webster v. Watts* (1847), 11 Q. B. 311.

(*k*) *Monks v. Dykes* (1839), 4 M. & W. 567. (*l*) Com. Dig. Trespass C. (2).

(*m*) *Wright v. Starvert* (1859), 2 E. & E. 721 ; see *per* BLACKBURN, J.

the lodger must acquire a right to use the premises as a lodging, subject to the general power of control and dominion exercised by the landlord, but exclusive of any right in the landlord during the continuance of the contract to use the premises for any other purposes of his own.

A mere permissive user, without a contract or payment of rent, is not sufficient. Thus, in a Scotch case, a son who was allowed by his father, without contract or payment of rent, the sole use of two rooms in his father's house, of the requisite yearly value, was held not entitled to the franchise as a lodger (*n*). At the same time, sons living in family with their parents and occupying and paying rent to them, either in money or money's worth, for rooms of the requisite value and of which they have the exclusive use, may be registered as lodgers (*o*). There is nothing absolutely inconsistent in the existence between the same persons of the relationship of landlord and lodger and parent and child. And in the same way there is nothing absolutely inconsistent in the existence between the same persons at one and the same time of the relationships of landlord and lodger and employer and employed. For instance, in *Bennett v. Evans*, decided in 1892, one Richard Bennett, a wine merchant, living and carrying on business in Grove Street, Wantage, employed Walter Lovegrove Bennett as an assistant in the business at an agreed weekly wage. And, by a separate agreement, Walter Lovegrove Bennett was to use and occupy a room in the premises at Grove Street at a weekly rent which was in fact deducted from his wages. He had the sole use of the room during the qualifying period, and it was of sufficient value. It was held that, since the occupation was not required in order to the performance of his duties as assistant, Walter Lovegrove Bennett was entitled to be registered as a lodger (*p*).

(2) **Occupation.**—Secondly, there must be an element of occupation, that is to say, an actual exercise, in fact, by the lodger of his rights under the contract.

In respect of a lodger qualification, the terms “occupy” and “occupation” must be used simply in their vulgar meaning with reference to the question of fact, and not as terms of art in the sense before mentioned, in respect of a ten pounds occupation (*q*), or a household qualification (*r*).

(*n*) *Dickson v. Macdonald* (1888), 16 Ct. Sess. Cas. 4th ser. 143.

(*o*) *Brown v. Martin* (1885), 13 Ct. Sess. Cas. 4th ser. 159.

(*p*) *Bennett v. Evans*, (1892) 1 Fox & Smith, 291.

(*q*) *Ante*, p. 152.

(*r*) *Ante*, p. 192.

This element of occupation in respect of a lodger qualification is completely covered by the condition of residence. It is impossible to distinguish a lodger from a resident, except that the term "resident" might be said to have a larger meaning. Therefore, in discussing the condition of residence, all the ground covered by the element of occupation will be covered, and more also.

**(3) Lodgings.**—The nature of the lodgings was described in section 4 of the Representation of the People Act, 1867 (*s*), by saying that they must be "part of one and the same dwelling-house." And by section 5 of the Parliamentary and Municipal Registration Act, 1878, it was enacted that in and for the purposes of the Act of 1867 the term "dwelling-house" shall include any part of a house, where that part is separately occupied as a dwelling, and the term "lodgings" shall include any apartments or place of residence, whether furnished or unfurnished, in a dwelling-house. The meaning of the term "dwelling-house," as used in that Act, has been already defined and commented on (*t*).

The Act of 1867 also required that the lodgings as described should be occupied "separately." "Separately" meant merely that the claimant should occupy those lodgings, and those lodgings only, and should not be entitled to be registered by reason of occupying more than one set of lodgings at the same time. It was by way of adding greater force to the requirement that the lodgings should be part of one and the same dwelling-house, although it did not make it necessary that that part should be structurally severed from the rest, or that the rooms should be adjacent to each other under the same roof. But since a lodger was said by the Act of 1867 "to occupy," it seems that that part of section 5 of the Parliamentary and Municipal Registration Act, 1878, which enacts that for the purposes of any of the Acts referred to in this section, where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately, by reason only that the occupier is entitled to the joint use of some other part, applies also to lodgings. Hence, if a lodger has a separate bedroom of sufficient value he will not be disqualified by reason only of being entitled to the joint use of a sitting-room. This point was decided by the Irish Court of Appeal (O'BRIEN, C.J., *diss.*) in the case of *Kelly v. Chambers* (*Gilliland's case*), in 1890, as explained in *Gallagher v. Hay*, decided in 1892. In *Gilliland's*

(*s*) 30 & 31 Vict. c. 102.

(*t*) *Ante*, p. 190.

case, he and another man named Woods jointly occupied a sitting room, and each of them separately occupied a bedroom in the same house. The rooms were not taken on the same occasion, but at different times under different contracts. The bedrooms were each of the requisite value without taking the sitting room into account (as appears from the judgments in *Gallagher v. Hay*). And it was held by the majority of the court that both Gilliland and Woods were entitled to the franchise (*n*).

Up to the passing of the Parliamentary and Municipal Registration Act, 1878 (*x*), it was necessary that the lodgings should have been the same lodgings, in the sense that they should have been actually the same room or rooms, containing the same area neither more nor less, and the occupation of two different sets of lodgings, though both of the requisite value and in the same house, at different times during the qualifying period, would not qualify the lodger for a vote. But when the definition of "dwelling-house" was amended by section 5 of the Parliamentary and Municipal Registration Act, 1878, by section 6 of the same Act it was provided, amongst other things, that "lodgings occupied by a person in any year, or two successive years, shall not be deemed to be different lodgings by reason only that in that year, or in either of those years, he has occupied some other rooms or place in addition to his original lodgings" (*y*). And also by subsection (2) of the same section, "for the purposes of qualifying a lodger to vote, the occupation in immediate succession of different lodgings of the requisite value in the same house shall have the same effect as continued occupation of the same lodgings" (*z*).

**(4) Value.**—The lodgings must be of the clear yearly value, if let unfurnished, of ten pounds or upwards.

This is, of course, a question of fact, as in every case where a certain value is required in a thing occupied or owned, to the occupation or ownership of which the right of voting is by law incident. The proper test of value, by analogy to the test adopted as regards other qualifications (*a*), would seem to be the fair amount which a person wanting to take that class of lodgings unfurnished would be willing to give for them.

(*n*) *Kelly v. Chambers*, (*Gilliland's case*) (1890), 28 L. R. Ir. 289; see *Gallagher v. Hay* (1892), 32 L. R. Ir. 166.

(*x*) 41 & 42 Vict. c. 26.

(*y*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 6 (1).

(*z*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 6 (2).

(*a*) *Id.*, p. 151.



This was the test adopted by the Irish Court of Appeal in *M'Crea v. Buchanan*, decided in 1889, where it was held that the clear yearly value of lodgings is to be ascertained by what they will really bring, that is, as much as the lessor can obtain by open competition. The facts in this case were that the claimant, a Catholic curate, paid twelve pounds a year unfurnished for his lodgings, and his predecessor in the office had paid a similar rent for the same lodgings, but a person not being a clergyman of the parish would not have paid so much. The revising barrister therefore held that the claimant was not entitled to the franchise, but his decision was reversed on the ground that he was wrong in holding that the value of the lodgings was to be ascertained by excluding from consideration the class of persons who would naturally be the best customers in the market (*b*).

In ascertaining the value, the Irish Court of Appeal have held (*dissentiente*, FITZ-GIBBON, L.J.) in the case of *Gallagher v. Hay*, decided in 1892, that a lodger with the exclusive use of one room under the annual value of ten pounds cannot qualify himself for the franchise by adding thereto any portion of the annual value of another room which he occupies jointly with other lodgers in the same house (*c*). The decision of the majority in this case proceeded on the ground that the "lodgings" are only that part of the house which is separately occupied by the lodger. But FITZ-GIBBON, L.J., held that the "lodgings" meant all that was was occupied under the contract as between the lodger and his landlord.

## 2. CONDITIONS OF REGISTRATION.

The conditions upon which the lodger is entitled to be registered in respect of his qualification are two. He is not entitled to be registered unless he has, first, resided in such lodgings during the twelve months immediately preceding July 15th; and, secondly, unless he has claimed to be registered.

**(1) Twelve Months' Residence.**—As to the former condition, in addition to what has been said already with reference to residence as a general condition of registration in respect of reserved rights (*d*), and also as a condition of registration in respect of a ten pounds occupation qualification (*e*), the following cases have been decided with special reference to lodgers.

In *Taylor v. The Overseers of St. Mary Abbots, Kensington*, decided in 1870, Samuel Thomas Taylor took lodgings, of the

(*b*) *M'Crea v. Buchanan* (1889), 26 L. R. Ir. 129.

(*c*) *Gallagher v. Hay*, (1892) 32 L. R. Ir. 166.

(*d*) *Ante*, p. 130.

(*e*) *Ante*, p. 166.

requisite value, and his wife and family occupied and resided in them during the whole of the qualifying period. Taylor slept there during such period one night in every week, and in some weeks two nights. With those exceptions he slept in other lodgings not within the borough, which were taken for him by his employers, who employed him as attendant upon a gentleman, upon whom his relatives and friends deemed it necessary that someone should be in constant attendance in the day-time, and also that such attendant should lodge in the same house with him. The court held that the other lodgings were only taken for Taylor's convenience by his employers, and that he was not obliged to sleep there, and had fulfilled the condition required of residence in the lodgings in respect of the occupation of which he claimed to be registered (*f*).

In *Bond v. The Overseers of St. George's, Hanover Square*, decided in the same year, Thomas Bond occupied lodgings in London as sole tenant for the qualifying period, and during the same period kept up a house in the country with an establishment of servants. He resided at the lodgings at irregular intervals during the qualifying period, for times amounting together to about nine weeks. The rest of the same period he resided at his house in the country. It was held that as there was nothing at any time to prevent him from returning to his lodgings if he pleased when he was not actually there already, that he had fulfilled the conditions as to the residence required by the Act, and was duly entitled to be registered (*g*).

In *Kelly v. Chambers (M'Connell's Case)*, decided in 1890, Robert M'Connell occupied a bedroom in a hotel by the year, and had the use of a sitting-room. The lodgings were of the requisite value. He gave leave to the hotel proprietor to let the bedroom while he was absent on vacation, and the money paid for the hire of the bedroom during the vacation by persons to whom it was let was received by the hotel proprietor. It was held that M'Connell was entitled to the franchise because he could return at any time during the vacation and claim his bedroom (*h*).

In *Falconer v. Dunlop*, decided in the same year, a son occupied as lodger rooms of the requisite value in his father's house, for

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(*f*) *Taylor v. The Overseers of St. Mary Abbots, Kensington* (1870) L. R. 6 C. P. 309.

(*g*) *Bond v. The Overseers of St. George's, Hanover Square* (1870), L. R. 6 C. P. 312.

(*h*) *Kelly v. Chambers (M'Connell's case)* (1890), 28 L. R. Ir. 292.

which he paid rent to his father, and resided in them for nine months of the year. During the remaining three months he was absent in the country and the house was shut up, but he had access to it at any time he desired and so was held entitled to be registered (*i*).

**(2) Claim to be Registered.**—The second condition is that the lodger shall have claimed to be registered as a voter at the next ensuing registration of voters.

The case of *Hersant v. Halse*, decided in 1886, makes it clear that the claim to be registered is an essential part of the qualification for the lodger franchise. In that case objection was duly made to the name of William Henry Humphrey being retained on the old lodgers' list for the south division of the borough of St. Pancras, on the ground that he had not claimed to be registered. It appeared that Humphrey had made no claim of any kind, but that his name had been inserted because the overseers in making out the list, instead of causing it to be printed *de novo* from the old lodger claims served upon them, had caused it to be printed from a copy of the lodger's list in the current register, from which copy they had intended to erase those names in respect of which no claim had been received. They had, however, omitted to erase the name of Humphrey, and failed to discover their mistake before the old lodger's list had been signed and published by them. The court decided that Humphrey's name ought not to remain on the list, on the ground that he had not claimed to be registered (*k*).

Of course the claim must be a claim to be registered as a lodger. If a person has claimed to be registered as an inhabitant occupier or householder, but not as a lodger, and it appears that he has no right to be registered as a householder, but, except for the fact that he has not claimed to be registered as a lodger, proves himself in every other respect duly qualified to be registered as a lodger, still for want of having claimed to be registered *as a lodger* he is not entitled to be registered (*l*). The authority cited for this, viz., *Cullen v. Patterson*, is an Irish case, but it was approved in *Hersant v. Halse* as directly in point in that case.

The declaration of residence and the attestation annexed to the prescribed form of a lodger claim form a necessary and material part of it, and if they are respectively dated before the date of the expiration of the qualifying period, the claim is bad. In *Jones v.*

(i) *Falconer v. Dunlop* (1890), 18 Ct. Sess. Cas. 4th ser. 342.

(k) *Hersant v. Halse* (1886), 18 Q. B. D. 412.

(l) See *Cullen v. Patterson* (1885), 18 L. R. Ir. 274.

*Kent*, decided in 1888, where the declaration of residence and the attestation in a lodger claim were dated six days before the date of the expiration of the qualifying year, the court held that the claim was bad on the face of it, and that the claimant was not duly qualified (*m*). So also if the date of the attestation be altogether omitted, although the declaration of residence be properly dated (*n*). Moreover, the subsequent ratification of an originally unauthorized signature to a lodger's claim is not sufficient to make it a good claim. For instance, in *Jones v. Beveridge* (*Kearns' case*), decided in 1886, John Kearns, being otherwise duly qualified as a lodger sent in no claim, and did not direct any one to send in a claim for him, but he did express a wish to have a vote, and a claim was sent in for him without his knowledge or authority. And the Irish Court of Appeal held that he was not entitled to the franchise (*o*). Further than this it has also been held in Ireland that a lodger's claim must, if he can use his own hand, be signed or marked by his own hand, and that if, although he might have used his own hand, his name has been subscribed to the claim by another person at the request and in the presence of the lodger himself, the claim is bad (*p*). MORRIS, L.J., in his judgment in this case added, "When the case of a man who has no hand (which has been suggested) arises, it will be dealt with. It is said some persons can write beautifully with their toes, and I presume that would be deemed a sufficient signature to satisfy the statute." As regards the attestation of the claimant's signature, it is a necessary condition to the validity of the claim that the witness should have actually seen the claimant sign it. Thus in *Body v. Halse*, decided in 1892, a claim was held bad where the attesting witness, a person who well knew the claimant and was acquainted with the facts stated in the claim, was not present when the claimant signed it, but afterwards on the same day at the request of the claimant himself subscribed the attestation of the claim which was handed to him by the claimant for that purpose (*q*). Where the witness described himself in the attestation as an "agent," he being in fact a registration agent, having at the time no other occupation, the description was held sufficient (*r*).

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(*m*) *Jones v. Kent* (1888), 22 Q. B. D. 204.

(*n*) *Smith v. Chandler* (1888), 22 Q. B. D. 208.

(*o*) *Jones v. Beveridge* (1886), 20 L. R. Ir. 383.

(*p*) *Harbridge v. Beveridge* (*Condren's case*) (1889), 26 L. R. Ir. 423.

(*q*) *Body v. Halse*, (1892) 61 L. J. Q. B. 57.

(*r*) *Campbell v. Chambers* (*Harris's case*) (1887), 22 L. R. Ir. 460.



If a claim is altered in a material particular, *e.g.*, by altering it from a claim as sole or as joint lodger, to a claim as sole lodger only, without the knowledge and authority of the claimant, after it has been duly signed and attested and before it is lodged, it will be thereby rendered void (s).

### 3. JOINT LODGERS.

Up till the passing of the Parliamentary and Municipal Registration Act, 1878 (*l*), it was necessary that the lodgings should be occupied by the person claiming to be registered "as sole tenant." "As sole tenant" meant as the only lodger in those rooms which together constituted the lodgings, or at least as not sharing with any other lodger the same sleeping-room. But by sub-section (3) of section 6 of the Parliamentary and Municipal Registration Act, 1878, it was provided that where lodgings are jointly occupied by more than one lodger, and the clear yearly value of the lodgings, if let unfurnished, is of an amount which when divided by the number of the lodgers gives a sum of not less than ten pounds for each lodger, then each lodger, if otherwise qualified, and subject to the conditions of the Representation of the People Act, 1867 (*u*), shall be entitled to be registered and when registered to vote as a lodger, provided that not more than two persons being such joint lodgers shall be entitled to be registered in respect of such lodgings (*x*). The Act, however, makes no provision as to which two lodgers, if there are more than two, are to have the preference.

## B.—Voters for Universities.

The right to vote in the election of members to serve in Parliament for the University of Oxford conferred by letters patent under the Great Seal, 1 Jac. I. (1603), is by ancient usage in the members of the Great Congregation of the University, commonly called Convocation. The persons of whom the Great Congregation, or Convocation, consists are defined in the Caroline Code (*y*), or Statutes of Archbishop Laud, for the University of Oxford, promulgated in 1636, Title X. These persons include the Chancellor and Vice-Chancellor, and, generally speaking, all the

(s) *Gallagher v. Hay* (1892), 32 L. R. Ir. 166.

(l) 41 & 42 Vict. c. 26.

(u) 30 & 31 Vict. c. 102.

(x) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 6.

(y) So called because confirmed by letters patent under the Great Seal, 12 Car. 1, June 3rd, 1636.

doctors of divinity, medicine, or civil law, and the masters of arts, having their names on the buttery books of some college or hall of the university (c).

The right to vote in the election of members to serve in Parliament for the University of Cambridge, conferred by letters patent under the Great Seal, 1 Jac. 1. (1603), is by ancient usage in the members of the Senate. The Senate is composed of the Chancellor, Vice-Chancellor, doctors of divinity, law, medicine, science, and letters, bachelors of divinity, and masters of arts, law, and surgery (a).

The right to vote in the election of a member to serve in Parliament for the University of London is, by section 25 of the Representation of the People Act, 1867, in every man whose name is for the time being on the register of graduates constituting the Convocation of the University, and who is of full age and not subject to any legal incapacity (b).

### CHAPTER III.

#### LOCAL GOVERNMENT ELECTORS.

LOCAL Government electors may be divided into three classes—(1) the electors of the councillors of municipal boroughs and administrative counties; (2) the electors of district councillors for urban districts other than municipal boroughs and for rural districts; (3) the electors of parish councillors.

The right to vote at elections to corporate offices in cities and boroughs in former times depended upon the various charters, usages, and Acts of Parliament affecting each particular city or borough. At the present time the right to elect town councillors is regulated by the provisions of the Municipal Corporations Act, 1882, as amended by section 3 of the County Electors Act, 1888 (c), in all cities and towns to which the Municipal Corporations Act, 1835 (d), applied on December 31st, 1882, and in every town, district, or place whereof the inhabitants have been incorporated since that date, and to which the provisions of the Municipal Corporations Acts are under that Act extended by charter (e). The City of London is not included amongst the cities and towns to which the Municipal Corporations Act, 1882, applies.

(c) Ward's Oxford University Statutes, vol. i., p. 131.

(a) Statutes of the University of Cambridge, Statute A. c. 3, s. 3, approved by the Queen in Council, February 27th, 1882.

(b) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 25.

(c) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 3.

(d) 5 & 6 Will. 4, c. 76.

(e) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 6.

The right to vote at elections of the county councillors under the Local Government Act, 1888, is by section 2 (4) of that Act conferred on the persons who in a municipal borough are enrolled as burgesses in pursuance of the Municipal Corporations Act, 1882, and the Acts amending the same, and elsewhere in an administrative county on the persons registered as county electors under the County Electors Act, 1888 (*f*). Therefore the qualifications of burgesses and county electors may be conveniently discussed together.

The right to vote at elections of district councillors for urban districts other than municipal boroughs and for rural districts is, under the Local Government Act, 1894, vested in "the parochial electors," as they are called, of the various parishes in the district (*g*). The parochial electors of a parish are the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish (*h*).

The right to vote at elections of parish councillors is in the parochial electors of the parish (*i*).

From the above it will be seen that for practical purposes the subject of this chapter may be conveniently dealt with under the following heads:—

- I. County Electors and Burgesses (p. 239).
- II. City of London Electors (p. 250).
- III. Parochial Electors (p. 252).

## I.—COUNTY ELECTORS AND BURGESSES.

The qualifications of county electors and burgesses are of two kinds, viz.,

- (i) the old burgess occupation qualification (p. 240) and
- (ii) the ten pounds occupation burgess qualification (p. 250).

### (i.) OLD BURGESS QUALIFICATION.

*A person entitled to be enrolled as a burgess, or registered as a county elector, in respect of an old burgess qualification —*

- (A.) *Must on the fifteenth day of July, in the year in which such person is enrolled or registered, be, and during the whole of the twelve calendar months immediately preceding that day (except the time, if any, not exceeding four months, during which he has permitted the house to be occupied as*

(*f*) Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 2 (4).

(*g*) Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 20 (3), 23 (3), 24.

(*h*) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 2 (1).

(*i*) *Ibid.* s. 2 (5).

*a furnished dwelling-house) have been, an occupier of a house, warehouse, counting-house, shop, or other building within the municipal borough or within the administrative county respectively; and*

- (B.) *Must have resided in the said municipal borough or in the said county, as the case may be, or within seven miles thereof, during the whole of the said twelve calendar months, except the time, if any, not exceeding four months, during which he has permitted his house as aforesaid to be occupied as a furnished dwelling-house, or has been absent in the performance of any duty arising from or incidental to any office, service, or employment held or undertaken by him; and*
- (C.) *Such person, or some one else, must, during the said twelve months, have been rated to all poor rates made during those twelve months in respect of the qualifying property; and*
- (D.) *All sums due in respect of the qualifying property on account of any poor rate made and allowed, or of any separate borough rate (if any) in the case of a burgess, or county rate in the case of a county elector, made after the fifteenth of July in the year preceding the year in which such person is to be enrolled or registered respectively, which shall have become payable from the person so rated in respect of the said property up to the fifth of January in the year in which such person is to be enrolled or registered respectively, must have been paid on or before the twentieth of July in that year.*

*If two or more persons jointly are such occupiers as above mentioned, each of such occupiers is entitled to be enrolled as a burgess or registered as a county elector, as the case may be (k).*

This qualification may be regarded as compounded of—

1. THREE ELEMENTS OF QUALIFICATION (p. 241)—(1) tenement; (2) occupation; and (3) estate; and the Act provides that a person possessed of a qualification so compounded may be enrolled or registered respectively upon fulfilment of—
2. THREE CONDITIONS OF ENROLMENT OR REGISTRATION (p. 245)—(1) residence; (2) rating; and (3) payment of rates.

Lastly, will be considered the subject of—

### 3. JOINT OCCUPIERS (p. 249).

(k) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 9 (2); Municipal Voters Relief Act, 1885 (48 & 49 Vict. c. 9); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2.



## 1.—ELEMENTS OF QUALIFICATION.

(1) **Tenement.**—The tenement is described in section 9 of the Municipal Corporations Act, 1882, in precisely the same words as those used in section 27 of the Reform Act, 1832 (*l*), to describe the tenement in the case of the old parliamentary ten pounds occupation qualification in boroughs, viz., “a house, warehouse, counting-house, shop, or other building,” but since it is not necessary that the tenement should be of any particular value, there is no provision as in the case of the old parliamentary ten pounds occupation qualification, that the value of such tenement may be eked out by reckoning in with it the value of land occupied therewith, nor that land may in any case be reckoned as part of the tenement, except such land as is actually covered by the house, warehouse, counting-house, shop, or other building.

The tenement so described may be, as in the case of the old parliamentary ten pounds occupation franchise in boroughs, of one of two classes, viz., those used for residential, and those used for commercial purposes—house for residence, warehouse, counting-house, shop, or other analogous building, for commerce. Where the tenement is residential, the decisions in *Cook v. Humber* (*m*) and *Henrette v. Booth* (*n*), that if the tenement be part of a house commonly called a house of itself, it must be structurally severed from the residue in order to be a house in law (*o*), do not apply, for it was held in *Greenway v. Batchelor, Aldridge's case*, in 1883, that although there is no specific enactment in the Municipal Corporations Act, 1882, that the tenement may be part of a house, not structurally severed, occupied as a dwelling, corresponding to the similar enactment in section 5 of the Parliamentary and Municipal Registration Act, 1878, with regard to the parliamentary franchise, yet from section 32, subsection (*a*), it is evident that the municipal franchise was intended to be placed in this respect in an exactly similar position to the parliamentary franchise, and therefore the tenement for the purposes of the municipal franchise may be part of a house, not structurally severed, occupied for residential purposes (*p*). This decision applies equally to the qualification of a county elector. Where the tenement is commercial the effect of section 5 of the Parliamentary and Municipal Registration Act, 1878 (*q*), as to the parliamentary ten pounds occupation qualification, is obtained by

(*l*) 2 & 3 Will. 4, c. 45. (*m*) *Cook v. Humber* (1861), 11 C. B. (N.S.) 33.

(*n*) *Henrette v. Booth* (1864), 15 C. B. (N.S.) 500. (*o*) See *ante*, p. 139.

(*p*) *Greenway v. Batchelor, Aldridge's case* (1883), 12 Q. B. D. 381.

(*q*) 41 & 42 Vict. c. 26, s. 5.

sub-section (a) of section 31 of the Municipal Corporations Act, 1882 (applied to county electors by section 2 of the County Electors Act, 1888), which provides, in precisely the same words, that "the terms house, warehouse, counting-house, shop, or other building, include any part of a house, where that part is separately occupied for the purposes of any trade, business, or profession; and any such part may, for the purpose of describing the qualification, be described as office, chambers, studio, or by any like term applicable to the case" (r).

It had been held in the case of *In re Creek*, decided in 1863, that a solicitor's office was a "counting-house" within the meaning of section 9 of the Municipal Corporations Act, 1835 (s). But in an Irish case of *Lovell v. Callaghan*, decided in 1893, the Irish Queen's Bench Division held that a stall in a market building, the Grand Parade Market, in the city of Cork, was not a shop within the meaning of section 30 of the Municipal Corporations (Ireland) Act, 1840 (t). The stalls were described as fitted with moveable benches or tables and open at all times in front, but solidly and substantially divided from each other, and from the public passages, the front portion of each being a heavy counter, with a heavy framework superstructure for hanging meat, many of the stalls being furnished with doors at the entrance from the public passages, all being furnished with desks and lockers, and many being furnished with partitioned offices and apartments. The section, however, does not include "building," but only "house, warehouse, counting-house, or shop" occupied separately or jointly with land. And the court thought that there was a difference between stalls and shops well known to the Legislature, as appeared from other statutes, and, therefore, held that these stalls were not shops (u).

As regards separate occupation, it is specially provided by sub-section (b) of section 31 of the Municipal Corporations Act, 1882, that "where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part." This enactment is in the same terms as the third paragraph of section 5 of the Parliamentary and Municipal Registration Act, 1878 (v), with

(r) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 31 (a); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2.

(s) *In re Creek*, *Ex parte Bracewell* (1863), 3 B. & S. 459.

(t) 3 & 4 Vict. c. 108.

(u) *Lovell v. Callaghan*, [1894] 2 I. R. 346.

(v) 41 & 42 Vict. c. 26, s. 5.

reference to separate occupation under any of the Acts as to parliamentary voters referred to in that section.

The qualifying property need not be throughout the twelve months constituting the period of qualification the same property or in the same parish (*w*).

There is no necessity that the building should be of any particular value to the occupier, but as a matter of fact it can scarcely happen that the building should be utterly valueless. Probably it would be held, that in order to be a "building" within the meaning of these Acts, there must be a structure of some permanence and utility either for residential or commercial purposes. Upon this point the cases decided under section 27 of the Reform Act, 1832, might be consulted with advantage (*x*), provided always that it be remembered that no particular value is expressly required under the Municipal Corporations Act, 1882, and County Electors Act, 1888. Reference may also be made to the Irish case of *Owens v. Hanrahan*, decided in 1889, as to a household qualification (*y*). Since no particular value is expressly required, no question can arise as to joining together structurally severed compartments of one building, or separate and distinct buildings, to form one entire qualification.

(2) **Occupation.**—The element of occupation is here taken as including merely the actual exercise in fact of the rights of a person entitled in law to exclusive possession of the tenement. The period over which it must extend is the same as in the case of a parliamentary ten pounds occupation qualification in a county (*z*). What amounts to an actual exercise in fact of the rights of a person entitled in law to exclusive possession of the tenement has already been fully discussed in relation to a parliamentary ten pounds occupation qualification in a borough (*a*), and all that is there said is equally applicable to an old burgess qualification. It may be added that it is specially provided under section 2 of the Municipal Voters Relief Act, 1885 (*b*), that a man shall not be disqualified from being enrolled or voting as a burgess at any municipal election in a borough in respect of the occupation of any house by reason only that during a part of the qualifying period, not exceeding four months in the whole, he has by letting or otherwise permitted such house to be occupied as a furnished dwelling house by some other person, and during such

(*x*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 33 (2); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2.

(*x*) *Ante*, p. 144.

(*y*) *Ante*, p. 192.

(*z*) *Ante*, p. 109.

(*a*) *Ante*, p. 152.

(*b*) 48 & 49 Vict. c. 9.

occupation by another person has not resided in or within seven miles of the borough. This enactment applies, as it would seem *mutatis mutandis*, to a county elector in respect of an old burgess qualification by virtue of section 2 of the County Electors Act, 1888 (c). It will be noticed, however, that it does not extend beyond the case of a house occupied as a furnished dwelling house.

So long as there is no break in the occupation it does not matter that it is not under the same title during the whole of the qualifying period, always provided of course that the occupier has the necessary estate in the premises during the whole period. Thus in *Timmis v. Albiston*, decided in 1895, Messrs. Gossage and Timmis carried on business in partnership at certain premises of which they were the owners until May in the qualifying year. They then made over both their business and premises to a limited company, but they retained the occupation of a portion of the premises which they had used and continued to use as an office under an agreement of tenancy from the company, by which the office was demised to Messrs. Gossage and Timmis from the very day when they had transferred the whole of their business and premises to the company. And it was held that Timmis, who was the only one of the two partners who appealed against the decision of the revising barrister disallowing their claims, was entitled to be enrolled as a burgess in respect of his occupation of the office (d).

(3) **Estate.**—The element of estate is necessary to an old burgess qualification, although the words “as owner or tenant” are not used in section 9 of the Municipal Corporations Act, 1882, and an occupation by virtue of any office, service, or employment is not sufficient. This was decided in the case of *McLean v. Pritchard* in 1887. In that case the occupier was the manager of a coffee house in the borough of Brighton, let by the owner to a committee, who put in the occupier to manage it for them as their servant, and it was held that he was not entitled to be enrolled as a burgess (e). This case was recognized and followed in the later case of *Kent v. Fraser*, decided in 1897. There the respondent David Fraser had been tenant from year to year of a public-house subject to three months’ notice to quit, but before the commencement of the qualifying period he entered into an agreement with his landlords to act as manager for them of the public-house at a weekly salary, and to account for all the takings, and remit the same weekly, less his salary and expenses for trade necessities,

(c) 51 & 52 Vict. c. 10.

(d) *Timmis v. Albiston*, [1895] 2 Q. B. 58.

(e) *McLean v. Pritchard* (1887), 20 Q. B. D. 285.



and to give up possession at a month's notice and to hand over the licences. He continued in possession under this agreement for the whole of the qualifying period, and after it was entered into paid no rent. And the court held that the agreement operated in law as a surrender of his yearly tenancy but did not create any new tenancy, and that Fraser only remained in occupation as a servant required to occupy in the performance of his contract of service, and was not entitled to be registered as a burgess, although he was entitled to be registered as a parliamentary elector as a service occupier (*f*). The element of estate is the same as that which is necessary to a parliamentary ten pounds occupation qualification in a county or borough, and all that has been already said (*g*) as to what is a sufficient estate for the purposes of a parliamentary ten pounds occupation qualification in a borough, and what is not, is equally applicable in the case of an old burgess qualification. The following additional cases may also be noted:—

In *Marsh v. Estcourt*, decided in 1889, labourers residing in cottages on the farms of their employers were permitted but not required to live in the cottages upon the terms that they were to give up possession when their employment ceased, and were either charged a reduced rent or had the rent deducted from their wages. And it was held that being permitted but not required to occupy in the performance of their contract of service, they occupied as tenants and were entitled to be registered as county electors (*h*).

In *Lovell v. Callaghan*, decided in 1893, Callaghan and others held under weekly agreements from the Corporation of Cork, and subject to the regulations of the Corporation, certain stalls in the Grand Parade Market building in the city of Cork. The market building was closed and locked from 10 p.m. to 9 a.m., the keys being kept by, and a night watchman employed and paid by, the Corporation. And it was held that the stall-holders were not entitled to be enrolled as burgesses because they were not occupiers as tenants of the stalls, but merely permitted to use them as licensees of the Corporation (*i*).

## 2. CONDITIONS OF ENROLMENT OR REGISTRATION.

(1) **Residence.**—A person possessed of a qualification compounded of the elements above described is entitled to be enrolled as a burgess or registered as a county elector, as the case may be,

(*f*) *Kent v. Fraser* (1897), 61 J. P. 359.

(*g*) *Ante*, pp. 153—166.

(*h*) *Marsh v. Estcourt* (1887), 24 Q. B. D. 147.

(*i*) *Lovell v. Callaghan*, [1894] 2 I. R. 346.

if, in the first place, he has resided within the municipal borough or within the administrative county, as the case may be, within which the qualifying property is situate, or within seven miles thereof, during the whole of the twelve calendar months preceding July 15th in the year of enrolment or registration.

But by sub-section (1) of section 33 of the Municipal Corporations Act, 1882, applied also to county electors by section 2 of the County Electors Act, 1888, where a person succeeds to qualifying property by descent, marriage, marriage settlement, devise, or promotion to a benefice or office, then for the purpose of qualification the residence of the predecessor in title shall be equivalent to the residence of the successor, and the successor shall not be required to prove his own residence before the succession (*k*). With this exception, and except as regards the length of the period of residence required, the observations already made with reference to residence as a condition of registration as a parliamentary voter in a borough in respect of reserved rights (*l*), or in respect of a ten pounds occupation qualification (*m*), apply equally for the purposes of an old burgess qualification. And it is specially enacted by section 2 (*b*) of the Electoral Disabilities Removal Act, 1891 (*n*), that a person shall not be disqualified from being registered in the local government register of electors for a county or borough in respect of his occupation of any house, warehouse, counting-house, shop, building, land, or tenement, by reason only that during part of the qualifying period, not exceeding four months at any one time, he has in the performance of any duty arising from or incidental to any office, service, or employment held or undertaken by him, been absent from his dwelling house or not resided in or within the required distance from such county or borough.

It may be added here that persons entitled to be enrolled or registered as burgesses or county electors in all respects except that of residence, but who are resident beyond seven but within fifteen miles of the borough or county as the case may be, are entitled to be enrolled or registered in the separate non-resident list as qualified to be councillors although not in the lists of voters (*o*).

**(2) and (3) Rating and Payment of Rates.**—Rating and payment of rates as conditions of enrolment or registration are,

(*k*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 33 (1); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2.

(*l*) *Ante*, p. 130.

(*m*) *Ante*, p. 166.

(*n*) 54 & 55 Vict. c. 11.

(*o*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 11, 49; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 12; Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 76 (6).

by the terms of section 9 of the Municipal Corporations Act, 1882, and also as applied by section 2 of the County Electors Act, 1888, made personal to the occupier. But by the effect of sections 32 and 33 of the former Act, and also as applied by the latter Act, these conditions may be stated in the form in which they are stated above, in the general definition of an old burgess qualification(*p*).

By section 32, it is provided that if the occupier of any qualifying property, whether the landlord is or is not liable to be rated to the poor rate in respect thereof, claims to be rated to the poor rate in respect thereof, and pays or tenders to the overseers of the parish where the property is situate the full amount of the poor rate last made in respect of the property, the overseers shall put the occupier's name on the rate book in respect of that rate. If they fail to do so, he shall, nevertheless, for the purposes of the qualification, be deemed to be rated to that rate(*q*). This section does not repeal or limit the operation of section 19 of the Poor Rate Assessment and Collection Act, 1869(*r*), as declared by section 14 of the Parliamentary and Municipal Registration Act, 1878(*s*). It is in fact identical with section 30 of the Reform Act, 1832(*t*). It enables the occupier if his name does not appear on the rate book, and if his landlord is not rated or has not paid the rates, himself to pay or tender the amount due to the overseers, and so have his name entered on the rate book as occupier(*u*). Section 19 of the Poor Rate Assessment and Collection Act, 1869, as explained by section 14 of the Parliamentary and Municipal Registration Act, 1878, applies to county electors by reason of its incorporation in section 1 of the County Electors Act, 1888, and therefore where a person otherwise qualified as a county elector is duly entered in the rate book as occupier and the rates have been paid for him by his landlord, he is entitled to be registered(*x*).

With regard to the rating of successive occupiers, by subsection (1) of section 33 of the Municipal Corporations Act, 1882, it is enacted that "where a person succeeds to qualifying property by descent, marriage, marriage settlement, devise, or promotion to a benefice or office, then, for the purpose of qualification, the rating by a predecessor in title in respect thereof shall be

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(*p*) *Ante*, p. 240.

(*q*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 32.

(*r*) 32 & 33 Vict. c. 41.      (*s*) 41 & 42 Vict. c. 26.      (*t*) 2 & 3 Will. 4, c. 45.

(*u*) *Per* WILLS, J., in *Marsh v. Estcourt*, 20 Q. B. D. at p. 151.

(*x*) *Marsh v. Estcourt* (1889), 24 Q. B. D. 147.

equivalent to the rating of the successor; and rating in the name of the predecessor shall, until a new rate is made after the date of succession, be equivalent to rating in the name of the successor; and the successor shall not be required to prove his own rating before the succession" (y).

The observations already made with reference to a parliamentary ten pounds occupation qualification in a borough, with reference to when a rate may be considered to be *made*, and when to have *become payable* (z), are equally applicable to an old burgess qualification. But it seems that the rates which must have been paid in order to entitle the occupier to be enrolled as a burgess or registered as a county elector, as the case may be, only include, according to the strict grammatical construction of section 9 of the Municipal Corporations Act, 1882, rates made during the twelve months immediately preceding July 15th in the year of enrolment, and which have become payable up to January 5th in the same year (a). Payment of assessed taxes is no part of an old burgess qualification; but in the case of a burgess borough rates, and in the case of a county elector county rates, (if any), made during the twelve months immediately preceding July 15th in the year of enrolment or registration respectively, and which have become payable up to January 5th in the same year, must be paid on or before July 20th. Borough rates, as included in section 9, probably mean only the rates made under sections 144, 145, and 146 of the Municipal Corporations Act, 1882, in case the borough fund be insufficient for the purposes to which it is applicable, and do not include every rate in the nature of a borough rate which the council may have the power of imposing, as, for instance, a paving or lighting rate under some special Act (b), nor, as it seems, a separate library rate made, assessed, and levied in like manner as the borough rate under section 18 of the Public Libraries Act, 1892 (c), but not as part of the borough rate. County rates are generally levied together with the poor rate, and not as a separate rate. By

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(y) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 33.

(z) *Ante*, pp. 171, 173.

(a) The definitions of an old burgess qualification in the precept of the town clerk and clerk of the peace to the overseers under the Registration Order, 1895, include all sums due in respect of the qualifying property on account of any poor rate made and allowed during the twelve months immediately preceding January 5th in the year of registration. But it is doubtful whether these definitions could be held to override the express language of the Municipal Corporations Act, 1882, s. 9, notwithstanding s. 76 (7) of the Local Government Act, 1888 (51 & 52 Vict. c. 41).

(b) See the corresponding repealed provisions of 5 & 6 Will. 4, c. 76, s. 9, and *Reg. v. The Mayor of Lichfield* (1842), 2 Q. B. 693.

(c) 55 & 56 Vict. c. 53.



sub-section (3) of section 33 of the Municipal Corporations Act, where by law a borough rate is payable by instalments, payment by any person of any such instalment shall, as regards his qualification to be enrolled as a burgess, be deemed a payment of the borough rate in respect of the period to which the instalment applies.

### 3.—JOINT OCCUPIERS.

By the express terms of section 9 of the Municipal Corporations Act, 1882, and as applied by the County Electors Act, 1888, the occupation may be either "joint or several." These words were introduced into the section in accordance with the decision of the Court of Queen's Bench in *Reg. v. Mayor, etc. of Exeter (Dipstale's case)*, decided in 1868, where the court intimated that they had no doubt that a joint occupation was sufficient under section 9 of the Municipal Corporations Act, 1835 (*d*).

There is no limit imposed by the Acts upon the number of joint occupiers who may be enrolled as burgesses or registered as county electors. Only those who occupy as joint owners or joint tenants can be reckoned as joint occupiers, and persons who in fact use the qualifying property by permission of the occupier, but have no estate therein, are not joint occupiers (*e*). At the same time a joint occupation may be created by verbal agreement and entry into possession, as appears from the case of *Unwin v. McMullen*, decided in 1891, under section 11 of the Municipal Corporations Act, 1882. There John McMullen, the respondent, entered into a verbal agreement with his mother, who had been for several years tenant and occupier of the Blue Bell Inn, 18, King Street, in the borough of Workington, by which she was to retire from the business, and he was to take it over from her, and she was to continue in the house and have her board, lodging, and clothing free of charge. He then gave up his own house, and removed with his wife, family, and furniture into the Blue Bell Inn, and took over the entire management according to the agreement, but there was no assignment of the lease nor transfer of the licence to the respondent. The respondent, however, asked the assistant overseer to insert his name in the rate book as joint occupier, which the assistant overseer said he would do, but omitted to do. The rates were paid out of the profits of the inn, but receipts were given in the mother's name only. The respondent's occupation had extended over the

(*d*) *Reg. v. Mayor of Exeter (Dipstale's case)* (1868), L. R. 4 Q. B. 114.

(*e*) See *Brewer v. M'Gowen* (1869), L. R. 5 C. P. 239, and *ante*, p. 222.

necessary period. And it was held that he was entitled to be enrolled as a burgess (*f*).

(ii.) TEN POUNDS OCCUPATION BURGESS QUALIFICATION.

Except that for the purpose of qualifying a county elector the qualifying property must be situate in the county, and that the voter must have resided for the required period in or within seven miles of the county, this qualification is the same as a parliamentary ten pounds occupation qualification in a borough, and all that has been already said in respect of that qualification (*g*) is equally applicable to this kind of qualification of county electors and burgesses.

## II.—CITY OF LONDON ELECTORS.

In the city of London, the lord mayor, the sheriffs, chamberlains, and some other minor public officers of the city are elected in common hall by the freemen and liverymen under 11 Geo. 1, c. 18.

The aldermen, common councilmen, and ward officers are elected at wardmotes for the several wards by persons qualified under the City of London Elections Act, 1849 (*h*), and the City of London Municipal Elections Amendment Act, 1867 (*i*).

### 1. ELECTIONS IN COMMON HALL.

The qualification to vote at the elections of the lord mayors and other officers in Common Hall, is like the qualification which gives the right to vote at parliamentary elections reserved by the Reform Act, 1832 (*k*); that is to say, the right to vote depends upon a two-fold qualification, coupling the character of freeman of the city with that of liveryman of one of the livery companies (*l*). But there is no condition as to residence, like the condition of residence for six months within twenty-five miles of the city, required for the purposes of the parliamentary franchise by section 46 of the Representation of the People Act, 1867 (*m*). There is, however, under section 14 of 11 Geo. 1, c. 18, the same precaution against voting by occasional freemen as in the case of the parliamentary franchise, viz., that no person shall have the right to vote unless he shall have been upon the livery of his company for twelve months before the election, and have paid his

(*f*) *Unwin v. McMullen*, [1891] 1 Q. B. 691.

(*g*) *Ante*, p. 135.

(*h*) 12 & 13 Vict. c. xciv.

(*i*) 30 Vict. c. 1.

(*k*) 2 & 3 Will. 4, c. 45, s. 32.

(*l*) *Ante*, p. 127.

(*m*) 30 & 31 Vict. c. 102.

livery fines without receiving any part back again or any allowance in respect thereof (*n*).

## 2. ELECTIONS IN WARDMOTES.

The qualifications of electors of aldermen, common councillors, and ward officers in wardmotes, which used to be regulated by the 11 Geo. 1, c. 18, now depend upon the City of London Elections Act, 1849 (*h*), and the City of London Municipal Elections Amendment Act, 1867 (*i*).

The effect of these statutes is that persons entitled to vote at such elections may belong to one of the four following classes: freemen occupiers, ten pounds occupiers, other parliamentary occupiers, and non-resident occupiers.

(1) **Freemen occupiers.**—All persons registered in respect of a ten pounds occupation qualification as parliamentary voters for the city, with the superadded qualification of being freemen of the city, are included in the class of freemen occupiers (*o*).

(2) **Ten pound occupiers.**—All persons registered in respect of a ten pounds occupation qualification as parliamentary voters for the city without being freemen (*p*).

(3) **Other parliamentary occupiers.**—All other persons registered as parliamentary voters for the city in respect of the occupation of any house, warehouse, counting-house, shop, office, chambers, or other building (*q*).

It is said that persons registered as parliamentary voters as lodgers are entitled to vote under the City of London Municipal Elections Amendment Act, 1867 (*r*). If this is so, it must be because they are to be regarded as included amongst persons registered as parliamentary voters in respect of the occupation of a house or other building under section 3 of that Act. Persons registered as parliamentary voters in respect of the occupation of a dwelling-house by virtue of any office, service, or employment, are not entitled to be registered as voters under the City of London Municipal Elections Amendment Act, 1867, because they have only been entitled to be registered as parliamentary voters since the passing of that Act (*s*).

(4) **Non-resident occupiers.**—All persons who but for the fact of non-residence would be entitled to be registered as parliamentary

(*n*) 11 Geo. 1, c. 18, s. 14.

(*o*) 12 & 13 Vict. c. xciv. s. 2.

(*r*) Norton's City of London, p. 250.

(*s*) See *McLean v. Pritchard* (1887), 20 Q. B. D. 285, and *ante*, p. 244.

(*p*) 30 Vict. c. i. s. 2.

(*q*) 30 Vict. c. i. s. 3.

voters in respect of the occupation of a house, warehouse, counting-house, office, chambers, shop, or other building (*t*).

### III.—PAROCHIAL ELECTORS.

The qualifications of parochial electors are those which entitle them to be registered either as parliamentary electors or as county electors in relation to the particular parish, for by section 2 (1) of the Local Government Act, 1894 (*u*), the persons in that Act referred to as “parochial electors” are declared to be the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish; and by section 44 (1) of the same Act it is enacted that the local government register of electors and the parliamentary register of electors, so far as they relate to a parish, shall together form the register of the parochial electors of that parish; and (2) where the parish is in a parliamentary borough, such portion of the parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership of any property in the parish shall be deemed to form part of the parliamentary register of electors for the parish within the meaning of this section. The expressions “local government register of electors” and “parliamentary register of electors” are defined by section 17 of the Interpretation Act, 1889 (*x*), as follows. By sub-section (3) of that section the expression “local government register of electors” shall mean as respects an administrative county in England or Wales other than a county borough, the county register, and as respects a county borough or other municipal borough, the burgess roll. By sub-section (2) of the same section the expression “parliamentary register of electors” shall mean a register of persons entitled to vote at any parliamentary election.

It will be observed that in section 2 (1) of the Local Government Act, 1894, the expression is “such portion” of the registers mentioned “as relates to the parish,” and by section 44 (1) the registers mentioned, “so far as they relate to a parish,” shall form the register of parochial electors. The effect of this limitation is, as was decided in the case of *Hart v. Beard* in 1895, to exclude registered freemen from the register of parochial electors. For in that case it was held that the fact of a person being on the list of freemen for a parliamentary borough does not entitle him

(*t*) 30 Vict. c. i. s. 4.

(*u*) 56 & 57 Vict. c. 73.

(*x*) 52 & 53 Vict. c. 63.



to have his name entered in the parochial electors' list for a parish within the borough, even though he may reside within the parish ; the names of freemen not being entered on the parliamentary register as those of other voters are under the heading of any parish, but they are placed on a separate list simply with the name of the polling district to which they have been allotted (*y*).

There is another point which must be specially noticed here in relation to the registration of parochial electors. Women, as hereinafter pointed out (*post*, p. 262), cannot be registered as parliamentary electors at all. But single women or widows may be registered as county electors or burgesses, and married women may be registered as county electors or burgesses for the purpose of voting as parochial electors only. It is, however, specially provided by section 43 of the Local Government Act, 1894 (*z*), that a husband and wife shall not both be qualified in respect of the same property. Therefore in registering joint occupiers as county electors or burgesses a wife cannot be registered as joint occupier with her husband for the purpose of voting as a parochial elector in respect of the same qualification.

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## CHAPTER IV.

### RIGHT TO VOTE AS AFFECTED BY PERSONAL CHARACTERISTICS.

THE right to vote, whether at parliamentary or local government elections, may be variously affected by the special personal characteristics of the person claiming to exercise that right. Some personal characteristics affect not only the right to vote but other legal rights, as well of a public as of a private nature ; and others again have a peculiar effect only on the right to vote. Of the first kind are certain physical characteristics, as age, sex, bodily and mental defects ; and also certain personal characteristics existing only in contemplation of law, as alienage, etc. All of these, forming part of legal status generally, affect to a certain extent other legal rights as well as the right to vote. Of the second kind are certain other personal characteristics only existing in contemplation of law, but connected by law in a peculiar manner with the right to vote, as the receipt of alms.

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(*y*) *Hart v. Beard*, [1896] 1 Q. B. 54.

(*z*) 56 & 57 Vict. c. 73.

## 1. RIGHT TO VOTE AS AFFECTED BY GENERAL STATUS.

(1) **Corporations.**—In the first place the right to vote at any election cannot reside in any but a natural person.

It is to be observed that at the present day certain persons being corporations sole may be entitled to be registered and to vote in their natural capacity in right of a qualification to which they are entitled for their own use and benefit in their corporate capacity, as a parson in respect of his glebe may vote at the elections of knights of the shire. But the members of a corporation aggregate cannot vote in right of property belonging to or occupied by the corporation, for no single one of them combines in himself all the rights of the corporation in such property or has any right in such property legally separable from the general right of the corporation therein.

The chief examples of persons who being corporations sole may be entitled to be registered as voters and to vote in their natural capacity, in right of a qualification to which they are entitled for their own use and benefit in their corporate capacity, are certain of the clergy. The deans and certain canons, or prebendaries, of cathedral churches are corporations sole as well as members of the corporation aggregate composed of the dean and chapter. Every archdeacon, parson, and vicar is a corporation sole (*a*). Originally the clergy were not represented in the Commons, but this had nothing to do with the point now under discussion. The reason was that they were represented in their own assembly in Convocation and they levied taxes on their own body, separate and distinct from those imposed on the laity. But since the Restoration, as already pointed out (*b*), the clergy have been taxed and have voted in common with the laity. Where a canon or prebendary, being a corporation sole, is also a member of the corporation aggregate composed of the dean and chapter of a cathedral church, there may be a question whether he enjoys the qualification for which he claims to be entitled to be registered as a voter, and to vote, in right of his canonry or prebend for his own use or benefit as a corporation sole, or only as a member of the corporation aggregate composed of the dean and chapter. In the former case he is entitled to be registered, but not in the latter. For instance, in *Ford v. Harington*, decided in 1869, one of the canons residentiary of the cathedral church of Exeter was objected to as being registered in respect of the house in which he resided. The dean and chapter of the cathedral are a corporation

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(*a*) Co. Litt. 250a; Watson's Clergyman's Law, 377. (*b*) *Ante*, pp. 15—17.

aggregate, consisting of the dean and five residentiary canons, and sixteen non-residentiary prebendaries. The residentiary canons are appointed for life, and there are five houses which they are severally entitled to occupy, and with their enjoyment of which the chapter, as a body, cannot interfere. As each one of the canons is elected and decreed to be installed, he takes possession of his house, and repairs it at his own expense. But each canon upon election prays the dean and chapter to be admitted to his house, and upon the suppression of some of the canonries the canonical residences were let and the rents paid into the common fund of the chapter. The court held that the canon occupied his house in his own right as a corporation sole, and not as his share of property belonging to the chapter, notwithstanding that the licence of the dean and chapter might be necessary to give him corporal possession; and that he was therefore entitled to have his name retained on the register in respect of the house (*c*). At the same time, as already pointed out (*d*), since the clergy enjoy the right to be registered and to vote in their natural capacity it is not necessary in all cases that a beneficed clergyman should be, strictly speaking, a corporation sole in order to entitle him to be registered and to vote in respect of his ecclesiastical freehold (*e*).

Corporations aggregate may be either spiritual, as the dean and chapter of a cathedral church, the distinguishing characteristic of such corporations being that they are incorporate for spiritual purposes, as well as composed of ecclesiastical members; or lay, whereof there are two large divisions, eleemosynary and civil. Eleemosynary corporations are formed for the distribution of the founder's bounty in perpetuity for purposes of relieving the poor or for educational purposes, as colleges and hospitals. Civil corporations are for a variety of purposes, for instance local government, as municipal corporations, or trade, as incorporated joint stock companies. The members of all alike are not entitled to be registered as voters, or to vote, in right of a qualification which they enjoy merely as such members by permission of the whole body in whom the property is by law vested. The following cases are illustrations of the rule in respect of every kind of corporation aggregate.

As to spiritual corporations, in the *Middlesex case*, in 1804, the Rev. W. Bell was objected to on the ground that he had no

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(*c*) *Ford v. Harington* (1869), L. R. 5 C. P. 282.

(*d*) *Ante*, p. 17.

(*e*) *Wallis v. Birks* (1870), L. R. 5 C. P. 222.

freehold, and it appeared that he was a prebendary of the cathedral church at Westminster, and voted for his prebendal house. The dean and chapter were made a body corporate by charter 21st May, 2 Eliz. The prebendaries chose their houses by seniority, and if they did not live in them they might let them. They enjoyed the profits of all their other estates jointly. The houses were repaired from the common fund. The vote was principally objected to on the ground that the messuage was the estate of the corporation, enjoyed in severalty by the members by agreement amongst themselves. The Committee held the vote bad (*f*). The Rev. John Wingfield, second master of Westminster School, was also objected to, and it appeared that he was appointed by the dean and chapter and upon his appointment became a member of the corporation. He received a stipend, and was also entitled to a house in Westminster, part of the corporate estates, by virtue of his office, which was for life. The vote was determined to be bad (*g*). And in a note to *Bell's case* it is said by the reporter that the Gloucestershire Committee in *Dr. Stone's case*, resolved that "the voter being a member of a corporate body, comprised of the custos and eleven vicars of Hereford, had not a right to vote for the county of Gloucester, for his part of the estate vested in the said corporation." Again, in *Harris v. Phillips*, decided in 1890, it was held that the canons residentiary of the cathedral church of Lincoln who are entitled under section 25 of the Ecclesiastical Commissioners Act, 1841 (*h*), to a fixed share in the corporate revenues arising out of the freehold lands of the corporation were not entitled to be registered in respect of such shares because they were simply entitled to them as members of the corporation aggregate formed by the dean and chapter of the cathedral (*i*).

As to eleemosynary corporations: Colleges for the promotion of learning and for the support of those engaged in literary pursuits are chiefly within the universities, and form component parts of these larger corporations, but others are out of the universities, and not necessarily connected with them. In the *Case of the County of Cambridge*, in 1624, it appeared that the scholars and fellows of colleges and halls came and gave voices at elections, and the House agreed with the committee in resolving that members of colleges, halls, and corporations, not having freehold, saving in right of their colleges, halls, or corporations, ought not

(*f*) *Middlesex*, (1804), *Bell's Case*, 2 Peck. 113.

(*g*) *Middlesex*, (1804) *Wingfield's Case*, 2 Peck. 113.

(*h*) 4 & 5 Vict. c. 39.

(*i*) *Harris v. Phillips*, [1891] 1 Q. B. 267.



to have voices in the election of knights or burgesses (*k*). So also in *Harris v. Phillips*, *supra*, GRANTHAM, J., instances fellows of colleges as not entitled to a vote in respect of their shares in the estates of their colleges (*l*).

The Inns of Court are not corporations, and have no constitution by charters from the Crown. They are voluntary societies, submitting to such rules as they make for themselves (*m*). Yet, in their collective capacities, they have held the property of the ground on which the chambers are built ever since they were established. The mode in which they supply the defect arising from their not being incorporated is said to be this:—The first grant of their possessions was made to a select number and their heirs in trust for the society at large. This select number forms the bench; as the members of it die they choose others from the society. The legal property is in the surviving members only of the original trustees; when that number is considerably reduced, they convey to one or two of their officers, as, for instance, to their steward and butler, in trust to convey to all the existing members of the bench. That conveyance is made, and thus the incident of survivorship is avoided and the succession continued (*n*). There can, therefore, be no objection to a member of any of these societies claiming to be entitled to be registered as a voter and to vote in respect of his enjoyment of chambers belonging to the society on the ground that his enjoyment is as a member of a corporation, for the Inns of Court are not corporations. Such objections as have been made go upon entirely different grounds (*o*).

“Of hospitals,” says Lord COKE, “some are corporations aggregate of many, as of master or warden and his *confrères*; some where the master or warden hath alone the estate of inheritance in him, and the brethren or sisters power to consent, having a college or common seal” (*p*), and between such hospitals as these and colleges, either in the universities or out of them, there is no difference in legal consideration; the difference is only in degree, for where in a hospital the warden and brethren are incorporated it is a college, having a common seal by which it acts, although it has not the name of a college (*q*). But there are other hospitals “where the master or warden hath the estate in him, but where there is no college or common seal,” and which

(*k*) Heyw. Co. El. 115.

(*m*) *Rex v. Gray's Inn* (1780), 1 Dougl. 352.

(*l*) [1894] 1 Q. B. at p. 268.

(*n*) Kyd on Corporations, pp. 6, 7.

(*o*) See *Middlesex* (1804), *Anstey's Case*, *ante*, p. 49, and *Smith v. Lancaster*, *ante*, p. 164.

(*p*) Co. Litt. 342a.

(*q*) Per HOLT, C.J., *Skinner*, 484.

therefore cannot properly be considered as corporations, the master or warden being merely a trustee for the house (*r*). There are other hospitals where the poor, who are the objects of the founder's bounty, are not themselves incorporated, but the corporate succession is vested in trustees under various denominations, who, of course, have no beneficial interest, but are only employed as instruments to effectuate the purposes of the institution; such are many modern hospitals, but these, says Lord COKE, are not legal hospitals (*s*). The cases of *Heath v. Haynes* and *Durant v. Kennett* are cases in which the hospitals in question were corporations aggregate, composed of the persons entitled to the receipt of the founder's bounty, like colleges, and where, therefore, the members were held not entitled to be registered in respect of their several enjoyment of the corporate property. In *Heath v. Haynes*, decided in 1857, the court held that an inmate of Earl Leicester's Hospital in Warwick, occupying rooms as one of the brethren of the hospital, which was part of the property of the master and brethren of the hospital, a body corporate by Act of Parliament passed 13 Eliz., did not occupy as owner or tenant within the meaning of section 27 of the Reform Act, 1832, and was not entitled to be registered as a voter for the borough in respect of his occupation (*t*). So, also, in the case of *Durant v. Kennett*, in 1869, the court held that one of the Naval Knights of Windsor, who were a body corporate by royal charter of the 38 Geo. 3, occupying as such knight a house forming part of the corporate property, was not an inhabitant occupier of the house as owner or tenant within the meaning of section 3 of the Representation of the People Act, 1867, and was not entitled to be registered as a voter for the borough in respect of it (*u*).

Such cases as *Davis v. Waddington* (*x*), *Ashmore v. Lees* (*y*), *Freeman v. Gainsford* (*z*), and *Steele v. Bosworth* (*a*), are cases in which the poor, who were the object of the founder's bounty, were not themselves incorporated, but the corporate succession was vested in trustees, and there was therefore no question as to the poor being entitled as members of the corporation aggregate. In *Simpson v. Wilkinson* (*b*), and *Heartley v. Bankes* (*c*), there was no question at all in reference to corporations, for the charities were not incorporate.

(*r*) Kyd on Corporations, p. 26.

(*t*) *Heath v. Haynes* (1857), 3 C. B. (N.S.) 389.

(*u*) *Durant v. Kennett* (1869), L. R. 5 C. P. 262.

(*x*) (1844), 7 M. & G. 37.

(*y*) (1845), 2 C. B. 31.

(*z*) (1861), 11 C. B. (N.S.) 68.

(*s*) 10 Co. Rep. 31a.

(*a*) (1864), 18 C. B. (N.S.) 22.

(*b*) (1844), 7 M. & G. 50.

(*c*) (1858), 5 C. B. (N.S.) 40.

The following cases are cases in which the members of civil corporations were held not to be entitled to vote in respect of their enjoyment of the corporate body. In *Bulmer v. Norris*, decided in 1864, the court held that a shareholder in a joint-stock company, incorporated for the purpose of working a mill, was not entitled to be registered as a voter in respect of his interest in the mill and premises, which were the property of the corporation (*d*). In *Acland v. Lewis*, a member of the corporation called the Company of Free Fishers and Dredgers of Whitstable was held not entitled to be registered as a voter in respect of his interest in the soil and freehold of an oyster fishery belonging to and managed by the corporation for their own use and benefit (*e*).

(2) **Aliens, Denizens, etc.**—Secondly, the right to vote is confined to British subjects.

In the *Westminster case* (1698), the House resolved that no alien, not being a denizen or naturalized, has any right to vote in the elections of members to serve in Parliament (*f*). In 1804, the Middlesex Committee, upon evidence that the voter was an alien in 1798, and no proof being given that he had since been naturalized, declared the vote bad (*g*). The same Committee decided the vote of a denizen to be good (*h*).

Aliens are by section 9 of the Municipal Corporations Act, 1882, extended to county electors by section 2 of the County Electors Act, 1888 (*i*), expressly disentitled from being enrolled as burgesses or registered as county electors, and consequently from voting at any municipal election in any city or town to which the former Act applies, or at any election of county councillors under the latter Act, for by the same enactments a person is not to be deemed a burgess or county elector for any purpose of those Acts unless he is enrolled as a burgess or registered as a county elector, as the case may be.

The distinction in law between British subjects and aliens is that British subjects do and aliens do not, owe allegiance to the sovereign for the time being of the United Kingdom. Allegiance is the reciprocal obligation between sovereign and subject binding the sovereign lawfully to protect the subject, and the subject lawfully to obey the sovereign. British subjects and aliens respectively are either born or made. Born British subjects at

(*d*) *Bulmer v. Norris* (1864), 9 C. B. (N.S.) 19.

(*e*) *Acland v. Lewis* (1864), 9 C. B. (N.S.) 32.

(*f*) 12 Comm. Journ. 367. (*g*) *Middlesex* (1804), *Barbre's case*, 2 Peck. 118.

(*h*) *Solomon's case*, *Ibid.* p. 117.

(*i*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 9; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2.

the common law include, first, all persons who are born of parents in actual obedience to the Queen at any place then within the Queen's dominions (*k*). Secondly, the lawful children, although born in some place then without the Queen's dominions, of the Queen's ambassadors (*k*). And by statute first, the Queen's lawful children wherever born (*l*). Secondly, all persons being lawful children, although born in some place then without the Queen's dominions, whose fathers are, at the time of the birth of such persons, natural born subjects at the common law, and not liable in case of their return to the United Kingdom without the royal licence to the penalties of high treason or felony, or in the actual service of any foreign hostile prince or state (*m*). And, thirdly, all persons being lawful children, whose fathers are at the time of the birth of such persons natural born subjects by virtue of 4 Geo. 2, c. 21 (*n*). Born aliens are, first, all persons born of parents not under the actual obedience of the Queen, although such persons are born within the dominions to which the Queen may have an absolute right, but of which she may not be in actual possession (*o*). And, secondly, all persons not being natural born subjects by 4 Geo. 2, c. 21, or 13 Geo. 3, c. 21, and not born at any place within the Queen's dominions, or born of parents not in actual obedience to the Queen, although born at some place within the Queen's dominions (*p*).

Born British subjects may be made aliens, first, by a severance of the succession to the sovereignty of the United Kingdom from the succession to the sovereignty of that part of the Queen's dominions which was their birthplace. Thus a person born in Hanover, when the Kingdom of Hanover formed part of the dominions of the King of Great Britain and Ireland, became an alien upon the accession of the Queen to the throne of the United Kingdom (*q*). And secondly, by treaty and cession of territory. So if a subject remain in territory newly ceded to a foreign power for the time limited by the treaty for that purpose, he may become an alien, as in the case of the recognition of the independence of the United States by the treaty of September, 1783 (*r*). But if the subject leave the newly ceded territory

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(*k*) 7 Co. Rep. 18.

(*l*) 25 Ed. 3, stat. 1 (*De natis ultra mare*).

(*m*) 4 Geo. 2, c. 21.

(*p*) 7 Co. Rep. 18a, and *Isaacson v. Durant* (1886), 17 Q. B. D. 54.

(*q*) *Isaacson v. Durant* (1886), 17 Q. B. D. 54.

(*r*) *Doe d. Thomas v. Acklam* (1824), 2 B. & C. 779; *Re Bruce* (1832), 2 Cr. & J. 436.

(*n*) 13 Geo. 3, c. 21.

(*o*) 7 Co. Rep. 18a.



within the time limited by the treaty he remains a subject, even if he afterwards returns, unless he becomes positively naturalized (*s*). Thirdly, born British subjects may become aliens under the provisions of the Naturalization Act, 1870 (*t*), either by voluntary naturalization, after full age, in any foreign state, unless such naturalization was prior to the 12th May, 1870, and such person has made a declaration of British nationality in accordance with the Act within two years after that date (*u*); or by making a declaration of alienage under the fourth section; or, if an infant, whose father being a British subject or whose mother being a British subject and a widow becomes an alien pursuant to the Act, by residence with such father or mother in the country of which such father or mother has become a subject (*x*); or, if a woman, by marriage with an alien (*y*). Born aliens may be made British subjects, first, by treaty and cession of territory in the converse manner to that in which born British subjects may be made aliens. Secondly, by conquest, as, for instance, upon the annexation of Burmah all Burmese became British subjects. Thirdly, under special Acts of Parliament. Fourthly, under the provisions of the Naturalization Act, 1870 (*t*), either by certificate of one of Her Majesty's principal Secretaries of State, and by taking the oath of allegiance as specified in the Act, such certificate being granted only upon evidence of five years' residence in the United Kingdom, or of five years' service of the Crown, and of an intention to continue in such residence or service (*z*); or, if a woman, by marriage with a British subject (*y*); or, if an infant, whose father or mother being a widow is a re-admitted British subject, by residence with such father or mother within the British dominions (*a*), or whose father, or mother being a widow, has been a born alien and was made a British subject by residence with such father or mother within the United Kingdom (*b*). And fifthly, born aliens may be made British subjects by letters patent from the Crown (*c*). These persons are called denizens. In Lord Coke's time all aliens born who had been made British subjects were called denizens, but it is now usual to confine the term to those born aliens who have been made British

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(*s*) *Doe d. Auchmuty v. Mulcaster* (1826), 5 B. & C. 770; *Jephson v. Riera* (1835), 3 Knapp, P. C. 130.

(*t*) 33 & 34 Vict. c. 14.

(*y*) *Ibid.* s. 10 (1).

(*a*) *Ibid.* s. 10 (4).

(*u*) *Ibid.* s. 6.

(*z*) *Ibid.* s. 7.

(*b*) *Ibid.* s. 10 (5).

(*x*) *Ibid.* s. 10 (3).

(*c*) 7 Co. Rep. 6a, 25b. See also 33 & 34 Vict. c. 14, s. 13.

subjects by royal letters patent, and to call other aliens made British subjects by the name of naturalized subjects.

Born British subjects who have been made aliens may be readmitted British subjects by certificate and by taking the oath of allegiance in the same manner and upon the like conditions as born aliens (*d*). Or, in the case of women, by marriage with a British subject (*e*). Born aliens who have been made British subjects may divest themselves of their status as such subjects under the provisions of the Naturalization Act, 1870, when Her Majesty has entered into a convention with any foreign state to the effect that the subjects of that state who have been made British subjects may do so by making a declaration of alienage within the time limited by such convention (*f*).

(3) **Women.**—Thirdly, the right to vote in the elections of members of Parliament belongs exclusively to persons of the male sex; although the municipal franchise in cities and towns, to which the Municipal Corporations Act, 1882, applies, and the right to vote at elections of county councillors, were extended to single women by section 63 of the Municipal Corporations Act, 1882 (*g*), and by section 2 of the County Electors Act, 1888 (*h*), respectively; and the right to vote as parochial electors was extended to married women by section 43 of the Local Government Act, 1894 (*i*), in cases where but for the fact of coverture they would have been entitled to be registered and to vote as county electors or burgesses.

Before the Reform Act, 1832 (*k*), and the introduction of the system of registration of parliamentary voters, women were incapacitated by the common law from voting at parliamentary elections (*l*). And the right to vote in respect of the new qualifications created by the Reform Act, 1832 (*k*), was confined by the express terms of the sections relating to such qualifications to "male persons." In the Representation of the People Act, 1867 (*m*), the word "man" was used in the sections creating new qualifications; but by section 56 all laws, customs, and enactments in force at the time of the passing of the Act relating to the right of voting and registration of voters were to remain in full force and to apply to persons by that Act authorized to vote, and by section 59 that Act was to be construed as one with the Reform

(*d*) 33 & 34 Vict. c. 14, s. 8.

(*e*) *Ibid.* s. 10 (1).

(*f*) *Ibid.* s. 3.

(*g*) 45 & 46 Vict. c. 50.

(*h*) 51 & 52 Vict. c. 10, s. 2.

(*i*) 56 & 57 Vict. c. 73, s. 43.

(*k*) 2 & 3 Will. 4, c. 45.

(*l*) 4 Co. Inst. 5.

(*m*) 30 & 31 Vict. c. 102.

Act, 1832. But in the case of *Chorlton v. Lings*, in 1868, it was argued that under Lord Brougham's Act (*n*) the word "man" in section 3 of the Representation of the People Act, 1867 (*o*), ought to be construed to include women. The case was as follows:—Mary Abbot, a woman of the age of twenty-one years and unmarried, had for the whole of the qualifying period occupied a dwelling-house within the borough of Manchester, and had in all other respects fulfilled the conditions necessary for registration in respect of such qualification as an inhabitant occupier, and claimed to be registered under section 3 of the Representation of the People Act, 1867 (*o*). The court held that at the common law women are legally incapable of voting at the elections of members of Parliament, and that the word "man" in section 3 of the above-mentioned Act could not be construed to include a person of the female sex (*p*). The same court held that a woman could not be registered as a voter for county elections in respect of a forty shilling freehold under 8 Hen. 6, c. 7 (*q*). Section 63 of the Municipal Corporations Act, 1882 (*r*), does not entitle a married woman to be enrolled as a burgess under that Act, although living separately from her husband, and but for the fact of the marriage otherwise duly qualified by occupation and rating, because a married woman is not in law "a person," her legal existence being merged on the marriage in that of her husband, and section 9 requires legal personality in order to be enrolled as a burgess, although by section 63 the mere disability of sex is removed (*s*). The same principle applies equally to the right of women to vote at elections of county councillors, under the County Electors Act, 1888. This principle, however, is expressly excluded as regards the right to vote at elections under the Local Government Act, 1894 (*t*), for by section 43 of that Act it is enacted that "for the purposes of this Act a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property" (*u*). The effect of this enactment is simply to

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(*n*) 13 & 14 Vict. c. 21, s. 4.

(*o*) 30 & 31 Vict. c. 102.

(*p*) *Chorlton v. Lings* (1868), L. R. 4 C. P. 374.

(*q*) *Chorlton v. Kessler* (1868), L. R. 4 C. P. 397.

(*r*) 45 & 46 Vict. c. 50.

(*s*) See *Reg. v. Harrauld* (1872), L. R. 7 Q. B. 361, decided upon similar words in the Municipal Corporations Elections Act, 1869 (32 & 33 Vict. c. 55), now repealed.

(*t*) 56 & 57 Vict. c. 73.

(*u*) Local Government Act 1894 (56 & 57 Vict. c. 73), s. 43.

remove the disqualification caused by coverture where the disqualification caused by sex has already been removed. It does not therefore operate to qualify a woman whether married or single to be a parochial elector by reason of the ownership of property. This point was decided in the case of *Drax v. Ffooks*, decided in 1896. The facts in that case were that the appellant, a married woman, claimed to be placed on the parochial electors' list for the parish of Milborne St. Andrew, in the county of Dorset, in respect of the ownership of property in the parish. And it was held that she was not entitled to be registered as a parochial elector (*x*).

(4) **Infants.** - Fourthly, no person may be registered as a voter or vote at parliamentary or local government elections unless of full age.

Lord COKE mentions men within the age of twenty-one years as instances with others of people bound by Acts of Parliament who are no parties to the elections of knights, citizens, and burgesses (*a*). And in the *Tacistock case*, December 8th, 1691, where the right of election was in the freeholders, this objection was made against one voter, and he was given up by the candidate for whom he had voted (*b*). In confirmation of the common law, 7 & 8 Will. 3, c. 25, s. 7 enacts that no person whatsoever being under the age of twenty-one years shall be admitted to give his voice for election of any member or members to serve in that or any future Parliament. Since this statute minors having voted and having been objected to upon petition were given up by both sides on petitions (*c*). And in the Reform Act, 1832 (*d*), and the Representation of the People Act, 1867 (*e*), the right of being registered as a voter and of voting in respect of the new qualifications created by those Acts are by the express terms of the sections relating to such qualifications conferred only on male persons or men "of full age."

In order to entitle a person to be enrolled as a burgess under the Municipal Corporations Act, 1882 (*f*), or registered as a county elector under the County Electors Act, 1888 (*g*), it is necessary by the express terms of section 9 of the former Act, applied to county electors by section 2 of the latter Act, that such person should be of full age.

(*x*) *Drax v. Ffooks*, [1896] 1 Q. B. 238.

(*a*) 4 Co. Inst. 5.

(*b*) 10 Comm. Journ. 576.

(*c*) *Norwich* (1701), 13 Comm. Journ. 791.

(*d*) 2 & 3 Will 4, c. 45.

(*e*) 30 & 31 Vict. c. 102.

(*f*) 45 & 46 Vict. c. 50.

(*g*) 51 & 52 Vict. c. 10.



A man attains his full age in law on the day before his twenty-first birthday, and the law in general takes no notice of fractions of a day (*h*). If, therefore, a man is born on the first day of January he is of age on the morning of the last day of December in the twenty-first year afterwards. It is apparent from the following cases that in order to entitle a man to be registered as a parliamentary voter it is sufficient if he attains his age of twenty-one years on the last day of the qualifying period. The *ratio decidendi* applies equally to enrolment as a burgess under the Municipal Corporations Act, 1882 (*i*), or registration as a county elector under the County Electors Act, 1888 (*k*).

In *Powell v. Bradley*, decided in 1864, Frederick Bradley claimed to be registered in respect of the occupation of a foundry, under section 27 of the Reform Act, 1832 (*l*). The claimant attained his age of twenty-one years in the month of March in the year in which he claimed to be registered. Held, that he was entitled to be registered (*m*).

In *Hargreaves v. Hopper*, decided in 1875, Joseph Hargreaves claimed to be retained upon the list of voters in the county of Lancaster, in respect of the occupation of a house and shop, under section 6 of the Representation of the People Act, 1867 (*n*). He only attained the age of twenty-one after the expiration of the qualifying year, viz., on September 16th, in the year in which he so claimed to be retained. Held, that he was not entitled to be retained upon the list of voters (*o*).

(5) **Idiots, lunatics, etc.**—Fifthly, at the time when a vote is given, the voter must be a person of sane memory.

People may be of non-sane memory for various reasons, and to a varying extent, but it seems that at the time of voting every voter should be able to understand at least the immediate object for which his act is an expression of desire, viz., the return of the candidate for whom the vote is given, and it would follow that in order to entitle a person to be registered as a voter there should be some reasonable prospect of that amount of intelligence on the

(*h*) *Herbert v. Turball* (1663), 1 Keb. 589; *Anon.* (1699), 1 Ld. Raymd. 480; *Fitzhugh v. Dennington* (1704), 2 Ld. Raymd. 1096; *Roe d. Wrangham v. Hersey* (1771), 3 Wils. 274; *Toder v. Sansam*, Dom. Proc., Feb. 27th, 1775; 1 Bl. Comm. 463.

(*i*) 45 & 46 Vict. c. 50. (*k*) 51 & 52 Vict. c. 10. (*l*) 2 & 3 Will. 4, c. 45.

(*m*) *Powell v. Bradley* (1864), 18 C. B. (N.S.) 65; see also *M'Daid v. Chambers* (*Sawyer's case*) (1894), 29 Ir. L. T. 81, to the like effect as to a joint occupier.

(*n*) 30 & 31 Vict. c. 102. (*o*) *Hargreaves v. Hopper* (1875), 1 C. P. D. 195.

part of the person claiming to be registered, if an election were to take place immediately after registration.

An idiot is one who from his nativity by a perpetual infirmity is *non compos mentis* (*p*). But a man is not an idiot if he hath any glimmering of reason, so that he can tell his parents or his age, or the like common matters (*q*). One who is born deaf, dumb, and blind is presumed by the law, until the contrary is proved, to be in the same state as an idiot (*r*). The vote of an idiot ought not to be allowed (*s*), and it seems such a person ought not to be registered as a voter.

A lunatic is a person who is sometimes of good and sound memory and understanding, and sometimes not (*t*). The vote of a lunatic may be good if given during a lucid interval (*u*), and a lunatic would, it seems, be entitled to be registered as a voter during a lucid interval, but probably not otherwise.

In cases of mere childishness or imbecility from age, the question as to registration would be whether the claimant had a chronic and hopeless incapacity for understanding the use of the right rendered exercisable by registration. The question upon the vote when given would be whether the voter understood the effect of his act towards bringing about the apparent object, viz., the return of the particular candidate for whom the vote was given.

**(6) Felons, convicts, outlaws, etc.**—Sixthly, the right to vote and to be registered as a voter may be suspended or altogether taken away, as part of the punishment for certain offences.

It seems that at the common law a conviction for misdemeanor does not amount to a disqualification of the voter (*v*); but it has never been directly decided whether at the common law the right to vote was taken away from felons on general grounds of public policy, and that for two reasons. In the first place, because formerly by far the larger number of crimes were punishable by death; and, secondly, in the case of persons voting in respect of a property qualification, that qualification was lost upon conviction. The question, therefore, could only have arisen in former times in some case of a person voting in a borough in right of residency, or as a member of the corporate body, after conviction for some

(*p*) Co. Litt. 247a.      (*r*) Co. Litt. 42a; 1 Bl. Comm. 303.

(*q*) F. N. B. 233.      (*s*) *Burgess's case*, *Bedfordshire* (1785), 2 Lud. 567.

(*t*) 1 Bl. Comm. 303; Heyw. Co. El. 260.

(*u*) *Tucker's case*, *Bridgewater* (1805), 1 Peck. 108.

(*v*) *Re Jones* (1835), 2 Ad. & Ell. 436. Conviction for perjury was formerly a disqualification by 2 Geo. 2, c. 24, s. 6; repealed by 17 & 18 Vict. c. 102, s. 1, Sched. A.

felony not punishable with death. At the common law the inseparable consequence of a judgment of outlawry, or of death for treason or felony, was attainder (*w*). The consequences of attainder were forfeiture and corruption of blood. In cases of high treason, the person attainted forfeited all his lands of inheritance to the king for ever, and the whole of his interest in the profits of all lands held for life or for years. In cases of petty treason and felony, the person attainted forfeited all his chattel interests absolutely, and the profits of all estates of freehold so long as he lived, and after his death all estates in fee for a year, day, and waste. And by the corruption of his blood, subject to the king's year, day, and waste, the lands of the attainted person in cases of petty treason and felony, escheated after his death to the lord as if such person had died without heirs and intestate. The result, therefore, of attainder, was in all cases that the person attainted lost any qualification to vote in respect of the ownership of property. But by the Forfeiture Act, 1870 (*x*), the attainder which was at common law the inseparable consequence of judgment of death for treason or felony was utterly abolished with all its results. And by section 2 of the same Act it was provided that any person convicted of treason or felony, for which he shall be sentenced to death, or penal servitude, or any sentence of imprisonment with hard labour, or exceeding twelve months, shall, until he shall have suffered the punishment to which he shall have been sentenced, or such other punishment as by competent authority may be substituted for the same, or shall receive a free pardon, continue thenceforth incapable of exercising any right of suffrage or other parliamentary or municipal franchise whatsoever (*y*). This statute does not make any difference in the consequences of a judgment of outlawry at the common law. But in civil cases proceedings to outlawry having been long disused were finally abolished by section 3 of the Civil Procedure Acts Repeal Act, 1879 (*z*). In criminal cases, however, proceedings to outlawry have not been expressly abolished by any statute. The last instance of such proceedings occurred in *Reg v. Tempest*, in 1859, where the judgment itself was not completed by entry before the defendant surrendered himself, and the proceedings were superseded (*a*).

The effect of a pardon under the Great Seal is to make the

(*w*) 4 Bl. Comm. 380.

(*x*) 33 & 34 Vict. c. 23, s. 1.

(*a*) Short's Crown Office Rules, 1886, p. 47.

(*y*) 33 & 34 Vict. c. 23, s. 2.

(*z*) 42 & 43 Vict. c. 59.

offender a new man, so that he thereby acquires new political rights. And in the case of a felony punishable with death or otherwise, the discharge of the prisoner out of custody on a free pardon, or the performance of the condition on a conditional pardon, has the same effect as a pardon under the Great Seal (*b*). The enduring of the punishment for any felony not punishable with death has the same effect (*c*).

This concludes the list of those personal characteristics which affect not only the right to vote and to be registered as a voter, but also other legal rights generally.

## 2. RIGHT TO VOTE AS AFFECTED BY PARTICULAR DISQUALIFICATIONS.

Other personal characteristics peculiarly affect the right to vote and to be registered as a voter as distinct from other rights.

(1) **Peers.**—From the very nature of the right to vote at parliamentary elections it is necessary that the person claiming it should be of the degree of a commoner.

In 1699 in consequence of the Earl of Manchester having voted at an election for Malden, the House of Commons resolved that no peer of this kingdom hath any right to give his vote at the election for any member to serve in Parliament (*d*). And again, in 1700, it was resolved by the House that if a peer or lord-lieutenant of a county concerns himself in elections, it is an infringement of the liberties of the commons. After the union of the kingdoms of Great Britain and Ireland the House adopted two resolutions on April 27th, 1802, which have been continued as sessional orders of the House ever since, and are as follows, viz., that no peer of this realm, except such peer of that part of the United Kingdom called Ireland as shall for the time being be actually elected, and shall not have declined to serve for any county, city, or borough of Great Britain, hath any right to give his vote in the election of any member to serve in Parliament (*e*), and that it is a high infringement of the liberties and privileges of the commons of the United Kingdom for any lord of Parliament or other peer or prelate, not being a peer of Ireland at the time elected and not having declined to serve for any county, city, or borough of Great Britain, to concern himself in the election of

(*b*) Criminal Law Act, 1827 (7 & 8 Geo. 4, c. 28), s. 13.

(*c*) Civil Rights of Convicts Act, 1828 (9 Geo. 4, c. 32), s. 3. And see *Leyman v. Latimer* (1878), 3 Ex. D. 15, 352. *Hay v. Tower JJ.* (1890), 24 Q. B. D. 557.

(*d*) 13 Comm. Journ. 64.

(*e*) 57 Comm. Journ. 34.



members to serve for the commons in Parliament, except only any peer of Ireland at such elections in Great Britain respectively, where such peer shall appear by himself or any other proposed to be elected; or for any lord-lieutenant or governor of any county to avail himself of any authority derived from his commission to influence the election of any member to serve for the commons in Parliament (*f*). Lord Coke (*g*), Chief Baron Comyns (*h*), and Blackstone (*i*) all concur in saying that no peer of Parliament has any right to vote at the election of a member of the House of Commons. Accordingly the Court of Common Pleas decided that a peer of Parliament has no right to be upon the register (*k*). And again, that an Irish peer, not being one of the representative peers or at the time elected a member of the House of Commons, was not entitled to be registered (*l*).

**(2) Employment influencing elections and the right to vote.**—Certain persons, whose position and powers might enable them, if more directly interested, unduly to influence the freedom of elections, are by statute disqualified from voting whilst in that position or fulfilling those duties.

Formerly revenue officers and police were so disqualified by various statutes, but those revenue officers whose disabilities were not removed by the 27 Geo. 3, c. 26, and 4 & 5 Vict. c. 20, s. 4, regained the right to vote on the repeal of the disqualifying statutes in 1868, by the 31 & 32 Vict. c. 73; and the disabilities of the police, except borough constables in certain cases, were removed in 1887 by the Police Disabilities Removal Act, 1887 (*m*), and of borough constables by the Police Disabilities Removal Act, 1893 (*n*).

At the present day the returning officer at an election may not vote, unless the addition of one vote would entitle any of the candidates to be elected, in which case the returning officer may give a casting vote (*o*).

The vote of any person retained or employed for reward by or on behalf of a candidate for all or any of the purposes of an election as agent, clerk, messenger, or any other employment, if given at such election, may be struck off upon petition (*p*).

(*f*) 57 Comm. Journ. 34, 376.

(*h*) Com. Dig. Tit. Parliament, D. 10.

(*g*) 2 Co. Inst. 29; 4 Co. Inst. 2, 15.

(*i*) 1 Bl. Comm. 158, 163.

(*k*) *Earl Beauchamp v. The Overseers of Madresfield* (1872), L. R. 8 C. P. 245.

(*l*) *Lord Rendlesham v. Howard* (1873), L. R. 9 C. P. 252.

(*m*) 50 & 51 Vict. c. 9.

(*n*) 56 & 57 Vict. c. 6.

(*o*) Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 2.

(*p*) *Ibid.*, s. 25.

But there is no objection to the vote of a candidate, even if given for himself (*q*).

(3) **Corrupt and illegal practices.**—Certain misdemeanors more particularly associated with elections, and commonly called corrupt and illegal practices, are punished by the same statutes by which they are created offences by disqualification to be registered as a voter or to vote for certain periods. The felony of personation is associated with these misdemeanors by similarity of punishment, although the punishment is more severe.

Corrupt practices include the following, viz.:—Treating, as defined by the Corrupt and Illegal Practices Prevention Act, 1883 (*r*), s. 1. Undue influence, as defined by the same Act (*r*), s. 2. Bribery as defined by the Corrupt Practices Prevention Act, 1854 (*s*), ss. 2 and 3; and the Representation of the People Act, 1867, s. 49. Personation, as defined by the Ballot Act, 1872 (*t*) s. 24; and the Police Disabilities Removal Act, 1887 (*u*), s. 2 (3).

Any person convicted upon indictment of any corrupt practice at any parliamentary or local government election, is incapacitated for seven years from the date of such conviction from being registered as a voter and from voting at any parliamentary or local government election in the United Kingdom (*x*).

Illegal practices include:—Expenditure on conveyance of electors; on use of electors' houses for addresses, bills, &c.; and on use of more than the lawful number of committee rooms (*y*); general expenditure in excess of the lawful maximum (*z*); voting and procuring of voting by prohibited persons (*a*); publishing false statements as to the withdrawal of candidates (*b*); and in addition to the above, in the case of candidates by themselves, or with their knowledge and consent:—Illegal payments, as defined by the

(*q*) *Heyw. Co. EL. 320. Derby* (1859), Rogers, 133. (*r*) 46 & 47 Viet. c. 51.

(*s*) 17 & 18 Viet. c. 102. (*t*) 35 & 36 Viet. c. 33. (*u*) 50 & 51 Viet. c. 9.

(*x*) Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Viet. c. 51), ss. 4, 6 (3); Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Viet. c. 70), ss. 2, 35, 36. The like disqualification applies under s. 2 (*d*) of the Public Bodies Corrupt Practices Act, 1889 (52 & 53 Viet. c. 69), in case of a second conviction for corruption in a public office under that Act.

(*y*) Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Viet. c. 51), s. 7; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Viet. c. 70), s. 4.

(*z*) Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Viet. c. 51), s. 8; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Viet. c. 70), s. 5.

(*a*) Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Viet. c. 51), s. 9 (1); Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Viet. c. 70), s. 6 (1).

(*b*) Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Viet. c. 51), s. 9 (2); Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Viet. c. 70), s. 6 (2) (3).

Corrupt and Illegal Practices Prevention Act, 1883 (*r*), ss. 13, 15, and 16, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (*c*), ss. 9, 11, 12; illegal hirings, as defined by the Corrupt and Illegal Practices Prevention Act, 1883, ss. 14, 20, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, ss. 10, 16; illegal employments, as defined by the Corrupt and Illegal Practices Prevention Act, 1883, s. 17; and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 13.

Any person convicted upon indictment of any illegal practice at any parliamentary or local government election, is incapacitated for five years from the date of such conviction from being registered as an elector, or from voting at any parliamentary or local government election within the county or borough in which the illegal practice has been committed (*d*).

The report of the Court or Commissioners upon the trial of any petition with reference to any of the above-mentioned elections, that corrupt practices other than treating or undue influence have been proved to have been committed by candidates or with their knowledge and consent; or that treating or undue influence has been proved to have been committed by candidates (*e*); or that illegal practices have been committed by candidates or with their knowledge or consent (*f*); or with reference to persons not candidates nor parties to the petition (subject to opportunity of defence and appeal) (*g*), that they were guilty of corrupt or illegal practices, has the same disqualifying effect as a conviction for such offences, unless, in the case of candidates, and with reference to treating, undue influence and illegal practices by agents, the report also exonerates them (*h*), or unless in any case of innocent payment, engagement, employment or contract, an exception is made (*i*). But if the report is not worded in the precise terms of the statutes applicable respectively, the candidate or other person will not be disqualified (*k*).

(*c*) 47 & 48 Vict. c. 70.

(*d*) Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), s. 10; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), ss. 7, 36.

(*e*) Parliamentary Elections Act, 1868 (31 & 32 Vict. c. 125), s. 11; Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), s. 4; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 3.

(*f*) Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), s. 11; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 8 (2).

(*g*) 46 & 47 Vict. c. 51, s. 38; 47 & 48 Vict. c. 70, s. 23.

(*h*) 46 & 47 Vict. c. 51, s. 22; 47 & 48 Vict. c. 70, s. 19.

(*i*) 46 & 47 Vict. c. 51, s. 23; 47 & 48 Vict. c. 70, s. 20.

(*k*) *Grant v. The Overseers of Popham* (1877), 3 C. P. D. 80.

(4) **Receipt of relief and alms.**—At the common law the votes of electors ought to be given freely, in a sense that is incompatible with recent dependence of the voter upon the bounty of the general community, or of private persons, for the necessities of life for the voter personally, or for those whom the voter is by law obliged to support. Proof, therefore, of poverty and of the receipt of the bounty of others under such circumstances as sufficiently found a reasonable presumption of the absence of that independence which is essential to the qualification of a free and independent elector will, unless and until rebutted by evidence to the contrary, effect a disqualification to vote. The strongest ground for the presumption against independence is afforded by evidence of the receipt of that relief which is provided by the parish for necessitous persons under the poor law system; but in cases of private charity, the particular circumstances have always to be carefully considered. A distinction was formerly drawn between parochial relief given on particular occasions, such as an outbreak of cholera or smallpox, or rendered necessary by some unforeseen accident, and parochial relief given in the ordinary way (*l*). In general, the independence of the voter was not at common law presumed to have been affected, unless the parochial relief or other alms were received within a year previous to the vote given (*m*). But an exception was made in the case of militiamen as to relief given to their wives and families during the time of actual service (*n*). And in the case of freemen and liverymen of the City of London, it was expressly enacted by section 14 of the 11 Geo. 1, c. 18, that they had no right to vote either at parliamentary or municipal elections if they had at any time within two years next before the election requested to be and had accordingly been discharged from paying to the rates and taxes to which the citizens of London inhabiting therein are liable, or if they had within such time had or received any alms whatsoever.

The common law received statutory confirmation by section 36 of the Reform Act, 1832 (*o*), as to cities and boroughs, extended to counties by section 40 of the Representation of the People Act, 1867 (*p*), and amended by section 7 of the Parliamentary and

(*l*) *Cricklade* (1785), 2 Lud. E. C. 364; *Cirencester* (1792), 2 Fras. 453; and *Colchester* (1789), 1 Peck. 508.

(*m*) *Heyw. Co. El.* 285.

(*n*) 18 Geo. 3, c. 59, s. 25; *Graves' case, Great Grimsby* (1802), 1 Peck. 71. This statute was repealed by the Statute Law Revision Act, 1861 (24 & 25 Vict. c. 101).

(*o*) 2 & 3 Will. 4, c. 45.

(*p*) 30 & 31 Vict. c. 102.



Municipal Registration Act, 1878 (*q*), by which enactments no person is entitled to be registered who shall within a year previous to the fifteenth of July in the year in which such person would otherwise be registered, have received parochial relief or other alms which by the law of Parliament disqualified. And by section 9 of the Municipal Corporations Act, 1882 (*r*), extended to county electors by section 2 of the County Electors Act, 1888 (*s*), no person may be enrolled as a burgess or registered as a county elector respectively who has within the twelve months constituting the period of qualification received union or parochial relief or other alms. There is, however, an important distinction between the meaning of "other alms" in section 9 of the Municipal Corporations Act, 1882, and "other alms which by the law of Parliament now disqualify" in section 36 of the Reform Act, 1832. In section 9 of the Municipal Corporations Act, 1882, which is taken from section 9 of the Municipal Corporations Act, 1835, it appears from the decision in *Reg. v. The Mayor of Lichfield*, decided on the earlier enactment in 1842, that the word "parochial" applies to "alms" as well as "relief" and therefore the "alms" must be such as are intrusted to the parish officers for distribution in aid of the rates for the relief of the poor. In that case it was held that consequently section 9 of the Municipal Corporations Act, 1835, did not apply to moneys distributed annually in Lichfield by trustees out of the income of the public charitable institution established by one Richard Wakefield for the use and benefit of the poor housekeepers of the borough not receiving parochial relief from any parish therein (*t*). But in section 36 of the Reform Act, 1832, the word "parochial" does not apply to "other alms," but the "other alms" must be such as would have disqualified a voter by the law of Parliament at the date of the passing of that Act, and will be discussed more at length hereafter.

On the other hand, by section 26 of the Vaccination Act, 1867, vaccination or the surgical or medical assistance incident to vaccination, performed or rendered by a public vaccinator, is not to be considered parochial relief or alms so as to disqualify (*u*). And

(*q*) 41 & 42 Vict. c. 26.

(*r*) 45 & 46 Vict. c. 50.

(*s*) 51 & 52 Vict. c. 10.

(*t*) *Reg. v. The Mayor of Lichfield* (1842), 2 Q. B. 693. It is doubtful how far receipt of benefits from the trustees of municipal charities may still be a disqualification. See Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 33 (4).

(*u*) Vaccination Act, 1867 (30 & 31 Vict. c. 84), s. 26.

by section 33 (4) of the Municipal Corporations Act, 1882, a person shall not be disentitled to be enrolled as a burgess by reason only that he has received medical or surgical assistance from the trustees of the municipal charities, or has been removed by order of a justice to a hospital or place for the reception of the sick at the cost of any local authority. And, by the Medical Relief Disqualification Removal Act, 1885, the receipt of medical relief at the expense of the parish is no longer to be a disqualification in any case (*x*); the distinction drawn as above mentioned between occasional and regular relief being no longer held to be good law. And lastly, by sub-section (4) of section 80 of the Public Health (London) Act, 1891, the admission of a person suffering from an infectious disease into any hospital provided by the Metropolitan Asylum Managers, or the maintenance of such person therein, is not to be considered parochial relief or alms so as to disqualify (*y*).

The following cases show what amounts to parochial relief which will disqualify. First, where given to the voter personally : Payment for labour out of the parish funds at less than the usual rate of wages (*z*), whether varying in proportion to the size of the voter's family or not (*a*); payment for labour out of the parish funds at more than the value of the work to the guardians (*b*); necessities supplied to the voter when a lunatic by the governor of the asylum who looked to the parish for repayment (*c*); coffin and funeral expenses of child supplied to voter out of parish funds (*d*). Secondly, where given to those whom the voter is by law bound to support; payment for labour of voter's children out of parish funds at less than the usual rate of wages (*e*); maintenance of child in workhouse (*f*); maintenance of wife in lunatic asylum (*g*).

The following cases show what does not amount to receipt of parochial relief so as to disqualify;—Excusal from payment of

(*x*) Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 46).

(*y*) Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 80 (4).

(*z*) *Bedford* (1833), *Kemp's case*, Cockb. & R. 75. *Lancaster* (1848), *Taylor's case*, 1 Pow. R. & D. 156.

(*a*) *Bedford* (1833), *Skilliter's case*, Cockb. & R. 77.

(*b*) *Magarill v. The Overseers of Whitehaven* (1885), 16 Q. B. D. 242.

(*c*) *Bedford* (1833), *Simmond's case*, Cockb. & R. 79.

(*d*) *Oldham* (1869), *Whitnough's case*, 1 O'M & H. 161; *Kerr v. Chambers* (1886), 20 L. R. Ir. 207.

(*e*) *Bedford* (1833), *Hedge's case*, Cockb. & R. 77. See, as to this class of cases, Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 56.

(*f*) *Okhampton* (1803), *Coram's case*, 1 Peck. 373.

(*g*) *Berwick-on-Tweed* (1860), *Gray's case*, Wolf. & Br. 175.

poor rates on the ground of poverty (*h*) ; receipt of parochial relief by a child over sixteen, because the voter is not by law, except under an order of the justices, bound to support such child (*i*) ; or by a grandchild for the same reason (*k*) ; or by parents for the same reason (*l*) ; relief which the voter has promised to repay (*m*) ; payment by the relieving officer of an uncertificated midwife for attendance upon the voter's wife, such payment being made after the passing of a resolution of the guardians to permit the attendance of the parish doctor, as being medical assistance within the Medical Relief Disqualification Removal Act, 1885 (*n*).

With regard to the receipt of "other alms" it is impossible to say that there was when the Reform Act, 1832 (*o*) was passed, any fixed definite rule of Parliamentary law which was applicable to every case. Each case, of necessity, depended as it still does upon its own particular circumstances, and that state of things which in one place would have been held to be a disqualification might have been no disqualification in another (*p*). In many of the old boroughs the usage of the place and the decisions of the House or committees determined the law (*q*). The first question of the kind which is reported to have come before the courts of law came before the Court of Common Pleas in *Smith v. Hall*, decided in 1863. In that case the Court held that the brethren of the hospitals of St. Bartholomew and St. John, in the borough of Sandwich, were not, as such, disqualified by the receipt of alms. Both these institutions were alike in their constitution and management, each being a corporation by prescription, having property in lands and houses, the income of the former being divisible among the brethren yearly in equal proportions, and a house being assigned to each of the brethren wherein to live. The brethren were appointed by trustees appointed by the Lord Chancellor, and their qualification

(*h*) *Mashiter v. Dunn* (1848), 6 C. B. 30, and *Colchester* (1789), 1 Peck. 507.

(*i*) *Lancaster* (1848), *Harrison's case*, 1 Pow. R. & D. 164.

(*k*) *Oldham* (1869), *Kirk's case*, 1 O'M & H. 160.

(*l*) *Oldham* (1869), *Scholfield's and McDowell's cases*, 1 O'M. & H. 159, 160. *Reg. v. Ireland* (1868), L. R. 3 Q. B. 130. *Doherty v. Chambers* (1887), 22 L. R. Ir. 434; *M'Dermott v. Chambers (M'Laughlin's case)* (1887), 22 L. R. Ir. 432.

(*m*) *Rochester* (1835), *Newman's case*, K. & O. 114 ; but see *Reg. v. Flintan* (1830), 1 B. & Ad. 227, and *Canterbury* (1835), *Newington's case*, K. & O. 320 ; *Oldham* (1869), *Smith's case*, 1 O'M. & H. 161.

(*n*) *Honeybone v. Hambridge* (1886), 18 Q. B. D. 418.

(*o*) 2 & 3 Will. 4, c. 45.

(*p*) *Per* HAWKINS, J., in *Cowen v. Town Clerk of Kingston-upon-Hull*, [1897] 1 Q. B. at pp. 277—278.

(*q*) See a list in *Rogers' Elections*, vol. i. pp. 193—195.

was as being inhabitants or the children of inhabitants of the town, above the age of fifty-six, and having no competent means to live. The appointment of the brethren was for life, and upon appointment they had a right to the benefits of the institution and had previously voted without objection. The Court, without attempting to lay down any general principle, held they were not disqualified (*r*). In *Harrison v. Carter*, decided in 1876, two agricultural labourers, both married, one having five children and the other four, one having in the year previous to the electoral year received parochial relief, and the other having applied for it but not having got it, were held to be disentitled to be registered as voters for the borough of Petersfield in consequence of having received as proper objects of such charity shares in certain moneys left by the will of one John Goodger, to trustees to distribute to the poorest inhabitants of the tything of Weston, as the trustees should think fit (*s*). This case moreover does contain a statement of principle by LINDLEY, J., which is valuable at least in those cases where there is no trace of usage. He says there must be present in the circumstances of each particular case three elements of disqualification, viz., poverty, the receipt of alms, and the absence of that independence which is essential to the qualification of a voter, or else there will be no disqualification. Then came the case of *Baker v. Town Council of Monmouth*, decided in 1885. There the Court held that the objects of the charity established by one William Jones in that borough were disqualified by the receipt of alms. This charity, under a scheme approved by the Charity Commissioners, provided poor single persons of good character, having resided in the town or borough of Monmouth without having received any parochial relief during a period of not less than two years, and being from age, ill health, accident, or misfortune unable to maintain themselves by their own exertions, with lodgings in almshouses and a weekly sum not exceeding twelve shillings apiece. The court thought that the case was governed by the principle of *Harrison v. Carter*, and that the recipients of the benefit of this charity were disqualified by the receipt of alms (*t*). In *Edwards v. Lloyd*, decided in 1887, with regard to occupiers of almshouses in Christ's Hospital, Ruthin, in the borough of Denbigh, the facts were practically on all fours with the facts in *Baker v. The Town Clerk*

(*r*) *Smith v. Hall* (1863), 15 C. B. (N.S.) 485.

(*s*) *Harrison v. Carter* (1876), 2 C. P. D. 26.

(*t*) *Baker v. Town Clerk of Monmouth* (1885), 34 W. R. 64.



of *Monmouth*, except that the revising barrister had found that some of the almspeople were earning from three to nine shillings per week by their own exertions, and would not have been dependent on parochial relief if there had been no almshouses. The Court, however, held that these almspeople were nevertheless disqualified as being in the receipt of other alms within the meaning of the Act (*u*). In *Daniels v. Allard*, decided on the same day, the Court held that, as the case as stated by the revising barrister was not absolutely inconsistent with his decision, which was that certain inmates of the Licensed Victuallers' Asylum in the Peckham division of the borough of Camberwell, were not disqualified by the receipt of alms, they would not reverse his decision (*x*). This case also decides that where there is a claim by a body of men to be placed on the register, all relying on the same qualification, the disqualification by receipt of alms must be decided upon the case made and presented against the whole body, and not by considering every possible case against particular individuals unless, in the case stated by the revising barrister, a distinction is made between different members of the general body of claimants (*y*). Next came the case of *Dix v. Kent*, decided in 1890. It was there held that alms persons of St. Bartholomew's Hospital in the City of Gloucester are disqualified for the franchise by reason of their position under the hospital regulations, which make their participation in the benefits of the charity dependent upon the goodwill of the trustees (*z*). Finally in the case of *Cowen v. The Town Clerk of Kingston-upon-Hull*, decided in 1896, the Court held that brethren of the Charterhouse in the borough of Kingston-upon-Hull were not disqualified by the receipt of "other alms" within the meaning of section 36 of the Reform Act, 1832. The charity in that case was founded in 1384 for poor men and women, feeble or old, so long as they were necessitous. The property from which the revenues were derived was granted to the master, brethren and sisters and their successors for ever and is still vested in them, although by subsequent schemes the brethren and sisters were elected by the corporation of Hull and removable at their pleasure, but this power of removal had never

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(*u*) *Edwards v. Lloyd* (1887), 20 Q. B. D. 302.

(*x*) *Daniels v. Allard* (1887), 1 Fox & Smith, 70.

(*y*) *Per* HAWKINS, J., in *Cowen v. Town Clerk of Kingston-upon-Hull*, [1897] 1 Q. B. at pp. 281—282.

(*z*) *Dix v. Kent* (1890), 1 Fox & Smith, 186.

been exercised. The claimant as one of the brethren occupied a room in the Charterhouse and was rated for it to the poor rate, but the rates were paid out of the funds of the charity. He received a weekly allowance of seven shillings with medical attendance and coals. The brethren had always previously voted without objection. The Court thought this last a strong point in the claimant's favour, and that upon the whole the case was governed by *Smith v. Hall*, and not by *Harrison v. Carter*, and therefore decided in favour of the claimant (a).

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(a) *Cowen v. The Town Clerk of Kingston-upon-Hull*, [1897] 1 Q. B. 273.

## PART II.

## REGISTRATION.

THE general system of registration was first introduced by the Reform Act, 1832 (*b*). The yearly business of revising the lists of electors in county and borough constituencies and in local government areas is now carried on by executive officials, whose duties are to collect and prepare the materials for revision and to record the results, and by judicial officials whose duties are to make the actual revision.

The executive business is performed by the overseers of parishes and townships, and by the clerks of the peace in counties, and town clerks in boroughs. In certain cases, hereinafter more particularly referred to, a registration officer may be appointed under section 4 of the County Electors Act, 1888 (*c*), to perform the duties of the overseers. The judicial business is performed by the revising barristers, from whose decisions an appeal lies to the High Court of Justice in the Queen's Bench Division, as exercising the jurisdiction formerly vested in the Court of Common Pleas, and thence by leave of the High Court to the Court of Appeal, and their decision is final and conclusive.

The Universities of Oxford, Cambridge, and London have each their own method of registering the persons entitled to vote in the elections of members to serve in Parliament for each university respectively. In the University of Oxford the butler of every college and hall must every year give to one of the bedels, deputed for the purpose by the Vice-Chancellor, a paper signed by the Head of the House or his Vicegerent, containing the names of all the doctors and masters of the house who claim the right of voting, and their names are entered in a book, a copy of which is to be lodged with the Vice-Chancellor (*d*). In the

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(*b*) 2 & 3 Will. 4, c. 45.

(*c*) 51 & 52 Vict. c. 10, s. 4 (3).

(*d*) Caroline Code, Tit. X. Ward's Oxford University Statutes, vol. i. p. 133.

University of Cambridge the names of all persons entitled to vote in the Senate are inscribed by the registry in the register or book provided for the purpose (*e*); and in the University of London the register of graduates is kept by the registrar. All the universities have power to suspend or take away the degrees conferred by them, although the person suspended or degraded may be thereby deprived of his parliamentary franchise (*f*), and they are the proper judges of the construction of their own statutes (*g*). But since their power to confer degrees is derived from the Crown, the Crown may review their decisions. Any complaint concerning the right to vote for members to serve in Parliament for the Universities of Oxford or Cambridge would properly be first heard in the Court of the Vice-Chancellor (*h*), or referred by him to a court of delegates. From the decisions of these courts an appeal would lie to the Visitor. In the University of London it seems that any complaint would lie in the first instance to the Visitor (*i*). The right of visitation belongs to the Crown, as the founder of all the universities (*k*). But it seems that the Archbishop of Canterbury also claims the right of visitation in the Universities of Oxford and Cambridge (*l*). The Crown may visit by the Lord High Chancellor or by special commissioners (*m*). Where the Crown has not appointed any special visitor, the High Court of Justice in the Queen's Bench Division, as representing the old Court of Queen's Bench, has a general jurisdiction, in default of other remedy, to grant redress by way of *mandamus* if the university authorities have acted contrary to the general principles of all law (*n*).

The general system of registration of parliamentary and local government electors may be conveniently discussed in relation to, first: the preparations for the yearly revision of the lists, and secondly, the actual process of revision.

(*e*) Cambridge University Statutes, Stat. A. c. 3, s. 3, approved by the Queen in Council, Feb. 27, 1882.

(*f*) *Rex v. The Vice-Chancellor, etc. of Cambridge (Dr. Bentley's case)* (1722), 1 Stra. 557.

(*g*) *Rex v. The Vice-Chancellor, etc. of Cambridge (Frend's case)* (1794), 6 T. R. 89.

(*h*) See *Dr. Bentley's* and *Mr. Frend's cases* above cited.

(*i*) *Thomson v. The University of London* (1864), 33 L. J. Ch. 625.

(*k*) Com. Dig. Visitor A. 1, and *Thomson's case* above cited.

(*l*) Com. Dig. Tit. Visitor A. 5.

(*m*) Com. Dig. Tit. Visitor A. 2 & 3.

(*n*) See *Dr. Bentley's case* above cited, Chitty Prerog. 131; Tapping Mand. 267.



## CHAPTER I.

## PREPARATIONS FOR REVISION.

IN considering the preparations made for the yearly revision of the register, the subject may be discussed under two heads :

- I. Executive officials and their powers and duties (p. 281).
- II. Claims and objections, which are a part of the preparations usually left in the hands of local political agents, (p. 292).

## I.—EXECUTIVE OFFICIALS AND THEIR DUTIES.

## 1.—CLERKS OF THE PEACE AND TOWN CLERKS.

The clerk of the peace in a county is an officer appointed by the standing joint committee of the county council and quarter sessions (*o*).

In the parliamentary county of the Isle of Wight the town clerk of the borough of Newport acts as clerk of the peace for the purposes of registration (*p*).

It is provided by section 83 (1) of the Local Government Act, 1888, that the clerk of the peace is to be clerk of the county council, and is, when acting under the Acts relating to the registration of parliamentary voters or to any registration matters, to act under the direction of the county council ; and all enactments relating to such registration shall be construed as if clerk of the county council were therein substituted for clerk of the peace. By section 14 of the County Electors Act, 1888 (*q*), the clerk of the county council is to act as clerk of the peace throughout the whole county of the council for the purposes of the Registration of Electors Acts, 1843 to 1888, subject to the provisions of the Registration Act, 1885, respecting the case of any parliamentary county extending into more county quarter sessional areas than one, and to the proviso that where at the passing of the County Electors Act, 1888, any clerk of the peace acts as clerk of the peace under the Registration of Electors Acts, he shall continue so to act, but shall act as the deputy of the clerk of the county council.

(*o*) Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 83 (2).

(*p*) Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 79 ; Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101 ; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 7 (2).

(*q*) 51 & 52 Vict. c. 10, s. 14.

The Registration Act, 1885, provides, by sub-section (3) of section 7, that where a parliamentary county extends into more county quarter sessional areas than one, the clerk of the peace of each county quarter sessional area shall, in respect of each parish in such parliamentary county which is within his jurisdiction, act as and be deemed to be the clerk of the peace of the county, within the meaning of the Parliamentary Registration Acts and this Act, until the lists of voters for such parish have been revised; but the revising barrister shall transmit the revised lists of voters for such parish to the clerk of the peace of the county quarter sessional area which comprises the largest part in extent of the said parliamentary county, and save as aforesaid, such last-mentioned clerk of the peace shall, as respects the said parliamentary county, act as and be deemed to be sole clerk of the peace for the county for the purposes of the Parliamentary Registration Acts and this Act (*r*).

The town clerk in cities and towns to which the Municipal Corporations Act, 1882 (*s*), applies, is an officer appointed by the council of the borough, and where a municipal borough forms part of a parliamentary borough, the town clerk of the municipal borough is deemed to be the town clerk within the meaning of the Registration Acts (*t*). Where several municipal boroughs are included in one parliamentary borough the town clerk of each such municipal borough is the town clerk for his own municipal borough within the meaning of the Registration Acts (*u*). But in boroughs parliamentary only, the returning officer acts as town clerk (*v*), and in the City of London the secondaries, and in the borough of Southwark the high bailiff respectively, act as the town clerk for the purpose of registration (*x*).

The duties of the clerk of the peace and the town clerk with reference to registration are partly preliminary to the actual revision, assisting to prepare the materials for revision, and partly subsequent to the actual revision, recording and taking charge of the revised lists. As a general rule, these duties may be performed not only by the clerk of the peace or town clerk himself, but also by his deputy, or any person executing the usual duties of the

(*r*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 7 (3).

(*s*) 45 & 46 Vict. c. 50, s. 17.

(*t*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101; Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 18.

(*u*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 17.

(*v*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101.

(*x*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 56.

clerk of the peace or town clerk (*y*). The due performance of the duties of clerks of the peace and town clerks relating to registration is enforceable by penal action (*z*).

**(a.) Issue of precepts.**—The first of the preliminary duties of the clerk of the peace or town clerk with reference to registration is to make and send to the overseers, or to the registration officer (if one has been appointed), of every parish and township within his county or borough respectively, on or within seven days before April 15th in every year, his precept (*a*), containing elaborate instructions to the overseers what they are to do, and how and when they are to do it, together with the necessary copies of lists and forms.

In the city of London the secondaries must issue their precepts to the clerks of the livery companies on or before July 20th (*b*).

The further preliminary duties of clerks of the peace and town clerks, after the overseers and registration officers have played their part according to the precepts, are as follows:—

**(b.) Abstracts for revising barrister.**—As soon as possible after the revising barrister has notified his appointment to them, they ought to make and transmit to him an abstract of the persons objected to (*c*). The town clerk must also make out and transmit an abstract of the several lists of claimants, and the clerk of the peace, of the lists of claimants other than in respect of ownership. These abstracts are for the purpose of enabling the revising barrister to fix the dates for the holding of his courts of revision.

**(c.) Freemen's list.**—In every municipal borough the town clerk ought, on or before July 31st, to make out an alphabetical list of freemen entitled to vote, with their respective places of abode; and he ought to sign and publish such list on or before August 1st, and keep a copy for public inspection, without fee, at any time between 10 A.M. and 4 P.M., except on Sundays, during the first fourteen days after publication, and deliver copies on payment of the proper fee (*d*).

In the city of London the clerks of the various livery companies ought, on or before the last day of July, to make out, sign, and

(*y*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101; Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 17 (6).

(*z*) Reform Act, 1832 (2 & 3 Will. 4. c. 45) s. 76. Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 97. Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 75 (2) (*b*). Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 75.

(*a*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 7.

(*b*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 20.

(*c*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 31.

(*d*) *Ibid.*, s. 14, Sched. B., Form No. 5.

keep for inspection, and deliver copies of lists of the freemen of London, being liverymen of their respective companies. These lists are then published by the secondaries by affixing them to the Guildhall and Royal Exchange for fourteen days (*c*).

**(d.) Freemen's claim and objection lists.**—The town clerk must also, on or before August 25th, make out, sign, and publish lists of persons claiming on or before August 20th to be on the freemen's list, and of persons objected to on or before August 20th as retained on such list, and he must keep such claim and objection lists open to inspection, and deliver copies thereof as above described with reference to the freemen's list made out by him (*f*).

In the City of London the secondaries must, on or before August 25th, make out, sign, and publish, and subsequently keep for inspection, and deliver copies of lists of persons claiming to be, or objected to as retained, on the lists of freemen and liverymen made out by the clerks of the companies as above mentioned (*g*).

**(e.) Freemen's roll.**—In boroughs for which there was, on December 31st, 1882, a freemen's roll, the town clerk is to continue to keep it, and to do all things appertaining by law to the registration of freemen for parliamentary elections (*h*). And the freemen's roll is to be open to public inspection, and the town clerk must deliver copies to any person on payment of a reasonable price (*i*).

**(f.) Burgess and county electors' lists, etc.**—In municipal boroughs, the town clerk is to have the parish burgess list, the lists of claimants and persons objected to in respect of that list, and the burgess roll, printed, and to deliver printed copies to any person on payment of a reasonable price (*k*). In counties the clerk of the peace is to perform the like duties in respect of the county electors' lists and county register (*l*).

**(g.) Declarations as to change of abode.**—In counties the clerk of the peace must endorse on declarations as to change of voter's place of abode, to be transmitted to him on or before September 5th, the name of the polling district and of the parish or township in which the qualification to which the declaration

(*c*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 20, Sched. C., Form No. 1.

(*f*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 15, 18.

(*g*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 20, Sched. C., Forms Nos. 3 and 6.

(*h*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 263, 269 (3).

(*i*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 233 (5).

(*k*) *Ibid.*, s. 48.

(*l*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7 (2).



relates is situate, and the name of the person making the declaration and the date on which he received the same, and affix his initials to the last-mentioned endorsement (*m*). And the clerk of the peace must keep such declarations open to inspection at his office, and keep copies on sale, on any day prior to the first day on which a court for the revision of the lists of voters can be held (*n*).

(*h*.) **Declarations as to misdescription.**—In boroughs the town clerk, and in counties the clerk of the peace, must indorse on declarations as to misdescription, sent to him on or before September 5th, a memorandum, signed or initialled by him, stating the date on which he received the same, and naming the declarant and the list to which the declaration refers. And the town clerk and clerk of the peace must keep such declarations open to public inspection at his office, and keep copies on sale, on any day except Sunday, before September 8th (*o*). And they must deliver all such declarations to the revising barrister at his first court (*o*).

(*i*.) **Notice of courts.**—On receiving notice from the revising barrister of the times and places at which he is going to hold his court, and of the several parishes allotted to each court, the clerk of the peace and town clerk respectively must give public notice thereof, and must also give notice to the overseers of the parishes or townships allotted to each court. The public notice is to be given by the clerk of the peace by advertising in one or more of the newspapers circulating within the county, and by sending a copy of the notice to the overseers of every parish and township, with a request to them to publish the same. The town clerk must publish the notice on the town hall and on every church and chapel within the borough, or if there be no church, chapel, or town hall, then in some public and conspicuous place (*p*).

(*j*.) **Attendance at courts.**—Clerks of the peace in every case and town clerks, and in London the secondaries and clerks of the several livery companies, unless required by notice to attend some other court, must attend the first court of the revising barrister. Clerks of the peace must bring all the lists of voters for the county for the then current year, with the marginal additions

(*m*) County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 10; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6.

(*n*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (2).

(*o*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 24. Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (1), (3). County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6.

(*p*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 32 and 33.

thereto, and the lists of persons objected to, and one or more printed copies of the registers then in force, and declarations as to change of abode, arranged under the heads of the several polling districts according to the alphabetical order of the parishes and townships. Town clerks, secondaries, and livery clerks must bring all lists made by them, and original notices of claims and objections received by them. All clerks of the peace, town clerks, secondaries, and livery clerks must produce all documents, papers, and writings in their possession, custody, or power, touching any matter necessary for revising the lists of voters; and must answer upon oath all such questions as the revising barrister may put to them (*q*).

## 2. OVERSEERS.

All persons who by virtue of any office or appointment execute the usual duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed, are, as a general rule, qualified to perform those particular duties as overseers which are directed by the precept of the clerk of the peace or town clerk, and anything directed to be done by the overseers may be lawfully done by the major part of such overseers (*r*). As a general rule, the persons who execute the usual duties of overseers are the overseers themselves and the assistant-overseers.

The overseers used to be appointed yearly in parishes under the Poor Relief Act, 1601 (*s*), and in townships under the Poor Relief Act, 1662 (*t*), by the justices of the peace for the county or borough, from amongst the substantial householders. Assistant-overseers used to be appointed by warrant of two justices, on the nomination of the inhabitants in vestry assembled, to perform such duties in consideration of such salary as the vestry may specify, and to hold office until resignation or the revocation by the vestry of their appointment (*u*). But now in

(*q*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 34 and 35.

(*r*) Reform Act, 1832 (2 & 3 Will. 4, c. 45); Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101. Municipal Corporations Act, 1882 (45 & 46 Vict. 50), ss. 7 (1), 238 (1). In the City of Norwich, the guardians of the poor of the Norwich Incorporation perform the duties of overseers of the parish of Norwich under s. 88 of the Norwich Incorporation Act, 1889 (52 & 53 Vict. c. 187), and are therefore overseers within the meaning of the above enactments. See *Sutton v. Wade*, [1891] 1 Q. B. 269. And in places where a vestry clerk is appointed under any order of the Local Government Board made under s. 6 of the Vestries Act, 1850 (13 & 14 Vict. c. 57) it is his duty under s. 6 of that Act to perform the duties of the overseers in relation to registration. See also *post*, p. 296.

(*s*) 43 Eliz. c. 2.

(*t*) 14 Car. 2, c. 12.

(*u*) Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 7.

rural districts, in a parish where there is a parish council, the power and duty of appointing overseers and assistant-overseers is transferred to and vested in the parish council, and that council must, in each year, at their annual meeting, appoint overseers, and must fill up as soon as possible any casual vacancy occurring in the office during the year (*x*); and in a parish where there is no parish council, the power and duty of appointing overseers and assistant overseers is transferred to and vested in the parish meeting (*y*), but subject as it would seem to the provisions of any grouping order under sections 1 and 38 of the Local Government Act, 1894, in which case the appointments would probably under the orders be made by the parish council for the grouped parishes. In boroughs or other urban districts the power of appointment of overseers and assistant overseers may be vested in the town council or other representative body within the district, by order of the Local Government Board (*z*). Where, however, no such order has been made, it would seem that the old law is still in force. In all cases where the power of appointment has been transferred under the Local Government Act, 1894, appointments must be duly notified to the guardians of the poor law union comprising the parish. And if this is not done the guardians have power to make the appointment themselves (*a*). Formerly, also in every parish or reputed parish the churchwardens were *ex-officio* overseers in addition to those appointed by the justices, but this is no longer the case in rural parishes (*b*). Churchwardens are generally chosen by the parson and the parishioners, and if they disagree, then one by the parson and one by the parishioners (*c*), but, by special custom, they may be chosen by the parishioners without the parson, or by a select vestry (*d*).

The guardians of a union not wholly comprised in an urban district may, with the consent of the overseers of any parish or parishes within their union for which an assistant-overseer has not been appointed, annually appoint a fit person to act as registration officer for such parish or parishes, and may remove any such person, and fill up any vacancy caused by death, resignation, or otherwise. Such registration officer must perform all the duties of overseers for the parish or parishes for which he is appointed relating to registration, and is subject to the like

(*x*) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (1).

(*y*) *Ibid.* s. 19 (5).

(*z*) *Ibid.* s. 33 (1).

(*a*) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 50.

(*b*) *Ibid.* s. 5 (2).

(*c*) 89th Canon, 1 Jac. 1.

(*d*) Com. Dig. Tit. Esglise, F. 1.

penalties for neglect of duty. His remuneration is to be fixed by the guardians, and paid out of the poor rates of the parishes for which he is appointed, each parish contributing in proportion to the number of its voters (*e*).

**(1) Duties of overseers.**—The duties of overseers in preparing for the revision of the lists of electors are so elaborately set out in the precepts of the clerk of the peace and town clerk (*f*) that it is unnecessary to repeat them here in detail. But a short summary, in order of date, may be found useful and is here subjoined.

*April and May.*—Inquire as to persons not rated who may be entitled to be registered in respect of a household qualification, and enter their names in the rate book in the separate column for that purpose (*g*).

*June 20th.*—Publish (*h*) notice that non-payment before July 20th of rates made during the twelve months preceding January 5th last will disqualify parliamentary ten pounds and inhabitant occupiers, and ten pounds burgesses and county electors. Serve (*i*) notices to the like effect on all such occupiers from whom such rates have not been previously duly demanded.

These notices should also state that non-payment of borough rates will disqualify old burgess occupiers as burgesses, and that non-payment of county rate, if levied separately from poor rate, will disqualify old burgess occupiers as county electors.

In counties publish also copy ownership portion of parliamentary register, and notice to send in ownership claims before July 20th.

*July 20th.*—Last day for payment of rates made during the twelve months immediately preceding January 5th last. In counties, last day for ownership claims.

(*e*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (*h*).

(*f*) See Registration Order, 1895, which will be found set out in full with notes at the end of the Appendix to this work.

(*g*) In serving requisitions, it is necessary to observe carefully the mode of service prescribed by s. 9 (4) of the Representation of the People Act, 1884 (48 & 49 Vict. c. 15), by reference to s. 28 of the Representation of the People Act, 1867 (30 & 31 Vict. c. 102). It has been held in Ireland that service of a requisition addressed to the owner of rated hereditaments who was the person rated and liable to be rated for the same by leaving it with his estate bailiff at his rent office where he did not himself reside, was not good service. *Palmer v. Balrothery Union*, [1895] 2 I. R. 586.

(*h*) With regard to publication of notices, etc., it should be noted that where parishes have been grouped together for ecclesiastical purposes only, and have one church not situate in the parish for which the overseers are acting, the notices, etc., ought not to be posted up outside such church, but must be posted up in some conspicuous place within the parish for which the overseers are acting. *Hildreth v. Ingham* (1895), 64 L. J. M. C. 57.

(*i*) See note as to service of requisitions, *supra*.



*July 22nd.*—Make out list of persons disqualified for non-payment of rates. Keep it open for public inspection for fourteen days. Deliver copies on payment of fees.

Second return of deaths is now due from the registrar of births and deaths (*j*).

List of defaulters in payment of assessed taxes is now due from collectors of taxes (*k*).

*July 25th.*—Last day for old lodgers' claims.

In counties, remove published copy ownership portion of parliamentary register and notice to send in ownership claims.

*July 31st.*—Ascertain from relieving officer names of persons disqualified by receipt of parochial relief.

Make out occupiers' list in divisions.

Make out old lodgers' list, with marginal objections.

Make out also non-resident list of persons qualified to be county or borough councillors but not burgesses or county electors.

In counties, make out also list of ownership claimants, with marginal objections.

In boroughs, make out also reserved rights list, if any.

*August 1st.*—Sign, publish, keep for inspection, and deliver copies of the above lists.

Publish also corrupt and illegal practices list, if any.

*August 20th.*—Last day for notices of objection.

Last day for occupiers' claims and claims of lodgers not comprised in the old lodgers' list.

*August 25th.*—Make out claim and objection lists.

Make out also corrupt and illegal practices claim and objection list, if any.

Sign, publish, keep for inspection, and deliver copies of all the above lists.

Send copies to clerk of the peace, and in boroughs to town clerk also.

*September 8th.*—Third return of deaths from the registrar of births and deaths.

In counties, publish copy notice sent by the clerk of the peace. as to the time and place of holding the revising courts, and as to the several parishes the lists of and for which will be revised at each court.

In counties and boroughs, attend revising barrister's court.

Bring lists, original notices of claims and objections, notices of

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(*j*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 11; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 8.

(*k*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 12.

withdrawal or revival of objections, rate books containing rates made and allowed between January 5th in last year and July 15th last.

Produce all documents, papers, and writings in your possession, custody, or power, touching the matters above mentioned.

Answer upon oath all such questions as the revising barrister may put to you.

It is to be observed that in parishes divided into parts by the boundary of any parliamentary county or borough or of any municipal borough the overseers must for the purposes of registration act in each part as if it were a separate parish of itself (*l*).

For every wilful breach or neglect of duty the revising barrister may fine an overseer any sum not exceeding five pounds, nor less than twenty shillings, and such fine will not bar any right of action against such overseer at common law, nor his liability to a penal action of debt under the Reform Act, 1832, or the Parliamentary Registration Act, 1843, or the Municipal Corporations Act, 1882 (*m*). But the liability to be fined by the revising barrister prevents any liability to indictment as for a misdemeanor in contravening the provisions of the Registration Acts. This point was settled in the case of *Reg. v. Hall*, decided in 1891, where CHARLES, J. quashed an indictment against one John Hall, an overseer of the poor of the parish of St. Mary, Whitechapel, in the county of London, charging him with misdemeanor in wilfully omitting from and inserting in the list of electors for the parliamentary borough of Whitechapel the names of certain persons who ought not to have been omitted or inserted (*n*). Overseers are, however, liable to penal actions of debt for wilful breach or neglect of duty under section 76 of the Reform Act, 1832, and section 97 of the Parliamentary Registration Act, 1843, and under section 75 of the Municipal Corporations Act, 1882, which seems also applicable under section 75 of the Local Government Act, 1888. It has been held in the case of *Tarr v. McGahey*, decided in 1836, that in an action against an overseer under section 76 of the Reform Act, 1832, for wilfully inserting in the lists of voters the names of persons not entitled to be inserted, it is not essential that he should have acted from any

(*l*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 9.

(*m*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 51, 52; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), ss. 28, 29; Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), ss. 28, 29; Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 10; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), ss. 10, 29; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1. See also Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 9 (3), but note that under this section the maximum fine is forty shillings.

(*n*) *Reg. v. Hall*, [1891] 1 Q. B. 747.

corrupt motive; it is sufficient if he has acted wilfully (*o*). And this decision seems equally applicable under section 97 of the Parliamentary Registration Act, 1843. But in an action under section 75 of the Municipal Corporations Act, 1882, a mere neglect is sufficient, although neither wilful nor corrupt (*p*).

(2) **Expenses and receipts of overseers.**—An account of the expenses and receipts of the overseers, as well in respect of the registration of county electors and burgesses (*q*) as in respect of the registration of parliamentary voters for every parish and township, must be laid before the revising barrister at the court at which the lists of voters for the parish or township is revised (*r*), and amongst the expenses stated in such accounts there ought to be included the fees paid by the overseers to the registrars of births and deaths for returns of deaths (*s*). Any ratepayer present in court when the accounts are submitted to the barrister may inspect them, and object to any item or items before the accounts are allowed, and the barrister must hear and decide upon the objection (*t*). After hearing and deciding the objections, the barrister must, as part of the business of the revision, if necessary determine what expenses and receipts are incurred or arise in respect of each parish and how much is attributable to each part of a parish which is divided into parts by the boundary of any parliamentary borough or county or of any municipal borough (*u*), and must, in open court, sign and give to the overseers a certificate of the sum which he shall allow for their expenses, which certificate is under such circumstances final and conclusive.

Payment of the expenses and receipts of the overseers is made in this way. In a parish or part of a parish situate in a municipal borough, one half of the expenses allowed by the certificate of the revising barrister is paid out of the poor rates and the other half out of the borough fund; and one half of the receipts goes in aid of the poor rates and the other half to the borough fund. In a parish or part of a parish not situate in a municipal borough, one half of the expenses allowed by the certificate of the revising barrister is paid out of the poor rates and the other half is paid

(*o*) *Tarry v. M'Gahay* (1836), 7 C. & P. 380.

(*p*) *King v. Burrell* (1840), 12 A. & E. 460.

(*q*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 8.

(*r*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 57; Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), ss. 31, 32.

(*s*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 11.

(*t*) Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 32.

(*u*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 30; Registration of Electors Act, 1891 (54 & 55 Vict. c. 18), s. 2.

out of the county fund; and one half of the receipts goes in aid of the poor rates and the other half to the county fund. This is the simple effect of the very complicated series of enactments contained in sections 53 and 57 of the Parliamentary Registration Act, 1843 (*v*); section 31 of the Parliamentary Electors Registration Act, 1868 (*w*); section 30 of the Parliamentary and Municipal Registration Act, 1878 (*x*); sections 4 and 8 of the County Electors Act, 1888 (*y*); and section 2 of the Registration of Electors Act, 1891 (*z*).

The moneys which the overseers are entitled to receive out of the poor rates on the certificate of the revising barrister may be deducted by them out of the first poor rates to be collected in the parish after the revising barrister has signed his certificate (*a*). And that half of the certified expenses of the overseers of a parish or part of a parish situate in a municipal borough which is to be paid out of the borough fund may be paid without an order of the council of the borough (*b*) because it is payable under the direct authority of the Acts of Parliament. So also that half of the certified expenses of the overseers of a parish or a part of a parish not situate in a municipal borough which is to be paid out of the county fund may as it seems be paid without an order of the finance committee of the county council (*c*).

## II.—CLAIMS AND OBJECTIONS.

Claims and objections are subject to the following law:—

### 1. CLAIMS.

(1) **Ownership claims.**—Persons entitled to be registered as ownership voters in counties, and not upon the register for the time being, or who do not retain the same qualification or place of abode, must send in their claims to the overseers on or before July 20th (*d*). On a change of such qualification the elector must send in a claim, notwithstanding the description in the register of the former qualification may be equally applicable to the new (*e*).

If the elector has changed his place of abode he may, if he wishes, instead of sending in a claim, make a declaration as to his true place of abode before a justice of the peace, or some person

(*v*) 6 & 7 Viet. c. 101. (*w*) 31 & 32 Viet. c. 58. (*x*) 41 & 42 Viet. c. 26.

(*y*) 51 & 52 Viet. c. 10. (*z*) 54 & 55 Viet. c. 18.

(*a*) Parliamentary Registration Act, 1843 (6 & 7 Viet. c. 101), s. 57.

(*b*) Municipal Corporations Act, 1882 (45 & 46 Viet. c. 50), s. 140.

(*c*) Local Government Act, 1888 (51 & 52 Viet. c. 41), s. 80.

(*d*) Parliamentary Registration Act, 1843 (6 & 7 Viet. c. 18), ss. 4, 5.

(*e*) *Burton v. Gery* (1847), 5 C. B. 7. This was a case of a fifty pounds rental voter, and such a voter would now be properly registered in the occupiers' portion and not in the ownership portion of the register, but the principle remains applicable.



authorized to administer oaths in the superior courts, which must be transmitted to the clerk of the peace before September 5th, and by him delivered to the revising barrister at his first court (*f*).

If July 20th happen to fall on a Sunday, a notice of claim in respect of an ownership qualification given or sent to the overseers on that day is validly given or sent (*g*).

It was said by BYLES, J., in the case of *Jones v. Jones* (*h*), that the decision in that case with respect to a notice of objection to an ownership voter would apply to a notice of claim in respect of an ownership qualification. If that is so, then a notice of claim in respect of an ownership qualification need not be signed on the same day as the day on which it is dated, so long as it is dated of a day within the limits within which a notice of claim in respect of an ownership qualification can lawfully be given, and is also dated and signed by a person having a right to make such claim at a time when he has such a right. But the importance of the point is very small with regard to such a notice of claim by reason of the decisions in *Davies v. Hopkins* and *Leonard v. Alloways*, for those cases really amount to this, that the overseers may insert the name of a person in the list of ownership claimants without any notice of claim ever having been given or sent to them at all (*i*), and the fact may not be inquired into by the revising barrister for the purpose of striking the claimant off the list (*j*). But at the same time it does not follow that the overseers may with impunity wilfully disregard the terms of the statute, because they may thereby render themselves liable to be fined by the revising barrister under section 51 of the Parliamentary Registration Act, 1843 (*k*). In *Davies v. Hopkins*, WILLES, J., is even reported as saying that the overseers "if they improperly insert a claimant who has not given due notice, may be indicted," but having regard to the more recent case of *Reg. v. Hall* (*l*), that dictum is probably not law, notwithstanding its still more recent citation with approval by Sir P. O'BRIEN, C.J., in *McGrorey v. Chambers* (*m*). In *Leonard v. Alloways*, in 1878, it was decided that, although the notice of claim in respect of an ownership qualification was not in fact given or sent to the overseers

(*f*) County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 10; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (2); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6; Registration Order, 1895, Sched. 1, Form No. 7.

(*g*) *Rawlins v. The Overseers of West Derby* (1846), 2 C. B. 72.

(*h*) L. R. 1 C. P. 144.

(*i*) See *per* WILLIAMS and WILLES, JJ., in *Davies v. Hopkins*, cited below.

(*j*) *Post*, p. 349.

(*k*) 6 & 7 Vict. c. 18.

(*l*) *Reg. v. Hall*, [1891] 1 Q. B. 747; and see *ante* p. 290.

(*m*) [1894] 2 I. R. on p. 137.

until after July 20th, the overseers may nevertheless receive it and insert the name of the claimant in the list of ownership claimants (*n*), in accordance with the case of *Darvies v. Hopkins*. In *Darvies v. Hopkins*, it had been decided in 1837, in accordance with the maxim *quod fieri non debuit factum valeat*, that if a notice of claim in respect of an ownership qualification is not signed personally by the claimant but by another at his request, the overseers may nevertheless receive it and insert the name of the claimant in the list of ownership claimants (*n*).

(2) **Lodgers' claims.** Old lodgers must send in their claims to the overseers on or before July 25th (*p*). Persons claiming as lodgers, but not comprised in the old lodgers' list published on August 1st, must send in their claims to the overseers on or before August 20th (*q*). It is one of the conditions of registration and of the right to vote in respect of a lodger qualification that the lodger should have claimed to be registered (*r*). Therefore the overseers ought not in any case to insert the name of any person who has not sent in any claim to have his name inserted either in the old lodgers' list or in the list of persons claiming to be registered as lodgers, but not comprised in the old lodger's list (*s*). Nor ought they to insert the name of any person who has sent in his claim too late (*t*). But in other respects the overseers ought not to take upon themselves to judge whether a claim is good or bad, because that is the duty of the revising barrister.

(3) **Occupation claims.**—Persons omitted from the occupiers' list and claiming as having been entitled on July 15th then next preceding to have their names inserted therein, and persons desirous of being inserted for a different qualification than that for which their names appear in such list, must send in their claims to the overseers on or before August 20th (*u*). The prescribed forms of claim do not specify the occupiers' list as the list to which the

(*n*) *Leonard v. Alloways* (1878), 48 L. J. C. P. 81.

(*o*) *Darvies v. Hopkins* (1837), 3 C. B. (N.S.) 376. See also the Irish cases of *Hughes v. Barnett* (1857), 7 Ir. C. L. 369; *O'Brien v. Fenton* (1864), 15 Ir. C. L. 380; *McGeorgy v. Chambers*, [1894] 2 I. R. 129.

(*p*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 22; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 2.

(*q*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 30; Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 2; Registration Act, 1885 (48 & 49 Vict. c. 15), ss. 1, 3 (1).

(*r*) *Ante*, p. 235.

(*s*) *Hersant v. Halse* (1886), 18 Q. B. D. 412.

(*t*) *Whitwell v. The Clerk of the Peace for the North Riding of Yorkshire* (1889), 1 Fox & Smith, 152.

(*u*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 15; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7. Applied to counties and dates altered by Registration Act, 1885 (48 & 49 Vict. c. 15), ss. 1, 3 (1); Registration Order, 1895, Sched. 2 and 3, Forms H, No. 1.

claim relates, but that sufficient appears from the column as to the nature of the qualification, and therefore no specification of the list is necessary (*v*). The cases of *Barton v. Gery*, and *Rawlins v. The Overseers of West Derby*, decided with reference to claims in respect of ownership and cited above (*w*), are probably authorities to the same effect with reference to claims in respect of the occupation franchise. It is necessary that every claim in respect of an occupation qualification should be duly given or sent to the overseers, and they have no power to waive this and to insert the name of the claimant in the list of occupier claimants, and if they do so, that makes no difference as to the powers and duties of the revising barrister (*x*), but a notice of claim in respect of an occupation qualification need not be personally signed by the claimant and may be signed by another at his request, or even by a clerk of his duly constituted agent under the direction of such agent (*y*).

(4) **Freemen's and liverymen's claims.** In boroughs persons omitted from the freemen's list must send in their claims to the town clerk on or before August 20th (*z*). It has been decided in Ireland in 1895 in the case of *Nagle v. Campbell*, that it is not necessary for a freeman, who during the qualifying period has changed his place of abode from a residence within one division of a divided borough to another within the same borough or within the seven miles limit to serve a fresh notice of claim (*a*). In the City of London, persons omitted from the list of liverymen must send in their claim to the secondaries and clerks of their respective companies on or before August 20th (*b*).

## 2. OBJECTIONS.

Any person upon any list of parliamentary voters may object to the name of any other person being retained upon any list of parliamentary voters for the same county, city, or borough (*c*). And any person upon any list of county electors or burgesses in a county may object to the name of any other person being retained

(*v*) *Firth v. Overseers of Widdicombe-in-the-Moor* (1871), L. R. 7 C. P. 142.

(*w*) *Ante*, pp. 292, 293.

(*x*) *In re Sale* (1880), 50 L. J. C. P. 113. See *post*, p. 350.

(*y*) *Brown v. Tombs*, [1891] 1 Q. B. 255. See also the Scotch case of *Burns v. Cassells* (1892), 19 Ct. Sess. Cas. 287. The Scotch law is, however, express on the subject.

(*z*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 15; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 3 (1); Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18); Sched. B, Forms Nos. 7 and 9.

(*a*) *Nagle v. Campbell*, [1896] 2 L. R. 326.

(*b*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 20; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 3 (1); Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18); Sched. C, Forms Nos. 2 and 3.

(*c*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 7, 17; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 2 (1).

on such list. It is sufficient, in order to give the right to object, that the objector should have been upon the list at the time when the notice of objection is served, and it will not invalidate his objection that he may be himself subsequently struck off by the revising barrister before the objection comes on for hearing (*c*). It has also been decided in Ireland that a person who has been reported guilty of corrupt practices by the judges at the trial of an election petition may be an objector (*d*).

Proper notices of objection must be given both to the overseers of the parish or township and to the person so objected to, on or before August 20th (*e*). And in the case of an objection to a parliamentary ownership voter in a county, whenever the place of abode of the person objected to as described in the list is not in the parish or township to which the list relates, and the name of the occupying tenant of the whole or any part of the qualifying property, together with his place of abode, appears in such list, then a proper notice of objection must also be given to such occupying tenant (*f*).

**(a.) Notice to overseers.**—The term “overseers of the poor” is defined by section 101 of the Parliamentary Registration Act, 1843 (*g*), to extend to and mean all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor (*h*). So in the case of *Points v. Attwood*, decided in 1848, where the notice of objection to be given to overseers was properly given to an assistant overseer appointed for the parish under the Poor Relief Act, 1819 (*i*), without any limitation of the duties which he was to perform, but the appointment was perfectly general in its terms, it was held that the notice was properly given to the overseers as required by the Act (*j*). And also in *Green v. Mephram*, in 1878, where the notice of objection to be given to overseers was properly given to a collector of rates appointed to assist the overseers and churchwardens in making, assessing, levying, and collecting the poor rates, in filling up receipts, keeping books, and making returns relating to the poor rates, and to obey all lawful orders and directions of the guardians and of the majority of the

(*c*) *Pease v. The Town Clerk for Middlesborough*, [1893] 1 Q. B. 127.

(*d*) *Barr v. Chambers* (1887), 22 L. R. Ir. 264.

(*e*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 7, 17; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 3 (1).

(*f*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 7.

(*g*) 6 & 7 Vict. c. 18. (*h*) See *ante*, p. 286. (*i*) 59 Geo. 3, c. 12, s. 7.

(*j*) *Points v. Attwood* (1848), 6 C. B. 38; Cp. *Caunter v. Addams* (1863), 15 C. B. (N.S.) 512, where a claim to be rated was served upon an assistant overseer whose salary had been increased by a resolution of the vestry, but there was no subsequent re-appointment by the justices.



churchwardens and overseers ; and, as a fact, and by the consent of the overseers, he had been in the habit of discharging all the ordinary overseers' duties, including that of making out the lists for revision purposes, and of attending at the registration court, and there performing the overseers' duties, it was held that the notice was properly given to the overseers as required by the Act (*k*).

It may be observed that there is a slight difference between the wording of sections 7 (referring to counties) and 17 (referring to boroughs) of the Parliamentary Registration Act, 1843 (*l*), as to the overseers to whom notice must be given. In counties they are expressed to be "the overseers of the parish or township to which the list of voters containing the name of the person objected to may relate." In boroughs they are expressed to be "the overseers who shall have made out the list in which the name of the person so objected to shall have been inserted." There does not appear to be any material difference intended by this. For instance, in the case of *Beenlen v. Hockin*, decided in 1846, notice of objection to a person on the list of voters for the parish of St. Saviour's, in the borough of Dartmouth, was given to one of the churchwardens for that parish who had not personally signed such list ; and it was held that since churchwardens are by the Poor Relief Act, 1601 (*m*), s. 1, overseers for all purposes, and since the overseers generally are required to make out the lists, but not all the overseers are required to sign them, the notice was sufficiently given to the overseers who had made out the list (*n*). In the case of *Points v. Attwood*, above cited, a similar point was decided the same way, but the facts were even stronger, for it was there expressly stated in the case that the assistant-overseer upon whom the notice of objection was served took no part in making out the list ; and yet it was held that the notice of objection served upon him was sufficiently given to the overseers who had made out the list.

It is a condition precedent to the right to insist upon an objection to any person upon the list that proper notices of objection should have been given in proper time both to the overseers and to the person objected to, and the overseers have no right to waive the giving to them of a proper notice of objection, although, as above pointed out, they may waive the giving to them in due time of a proper notice of an ownership claim. But, in the case

(*k*) *Green v. Mopham*, (1878), 2 Hopw. & Colt. 458.

(*l*) 6 & 7 Vict. c. 18.

(*m*) 43 Eliz. c. 2, but see now section 5 of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

(*n*) *Beenlen v. Hockin* (1846), 4 C. B. 19.

of a notice of objection to be given to the overseers, the person objected to has a right to see that the conditions of the Act have been fulfilled (*o*). It is not necessary that a separate notice of objection should be given to the overseers in respect of each person objected to. And so in *Smith v. Holloway*, decided in 1861, where it was proved that separate notices of objection had been duly served on each person objected to, but the only notice of objection given to the overseers was a single notice in which the names of twenty-nine persons objected to appeared in a schedule, with their respective places of abode and qualifications as described in the lists, such notice of objection to the overseers was held to be a sufficient notice (*p*), and it makes no difference that the signature of the objector precedes the names of the persons objected to instead of being placed after them as in the prescribed form of objection (*q*).

**(b.) Notice to person objected to.**—In the notice of objection to be given to the person objected to it does not matter if, instead of following the form which is prescribed (*r*), and runs as follows, viz.,

“ To Mr. ———

“ I hereby give you notice that I object to *your* name being retained,” etc.,

the notice runs, for example, as follows, viz.,

“ To Mr. Sidney Rice Force.

“ I hereby give you notice that I object to *the* name of *Force Sidney Rice* being retained,” etc.

provided that the person is so denominated as to be commonly understood, even though there might by possibility be in the list of voters other persons of the same name (*s*).

The notice of objection to be given to the person objected to should in every case specify the grounds of the objection, and the objection will be confined to these grounds, which will be treated

(*o*) *Freeman v. Norman* (county) (1883), 12 Q. B. D. 373; *Barton v. Ashley* (borough) (1845), 2 C. B. 4.

(*p*) *Smith v. Holloway* (1861), L. R. 1 C. P. 145.

(*q*) *Sutton v. Wade, Gale v. Overend, Moore v. Atkinson*, [1891] 1 Q. B. 269. In *Moore v. Atkinson*, according to the reports in 60 L. J. Q. B. 28; 63 L. T. 588; 39 W. R. 223, the point was slightly different from that in *Sutton v. Wade* and *Gale v. Overend*, because the objector's signature had been placed at the bottom of the notice after the list of names objected to, and it was contended that the notice was bad because the prescribed form did not provide at all for a list or schedule of names objected to. The court, however, held the notice good.

(*r*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 17; Registration Order, 1895, Schedules 2 and 3, Forms (L), No. 2.

(*s*) *Force v. Floud* (1863), 15 C. B. (N.S.) 543.

as separate objections (*t*). In the notice of objection to be given to an ownership voter in a county, the grounds of objection must be stated as on the first, second, third, or fourth column of the list, and if on the third column, that the objection relates to the nature of the interest of the person objected to in, or to the value of, the qualifying property. In *Simcy v. Dixon*, decided in 1871, where the ground of objection was stated to be with reference to the third column of the register, and to relate to the nature of the voter's interest in the qualifying property, it was held that there was a sufficient statement of the grounds of the objection, the objection, as proved, being that the qualifying property was within a borough and sufficient to confer a vote for that borough (*u*). It has been decided in Ireland, upon an enactment worded similarly to section 6 of the County Voters Registration Act, 1865, that where the ground of objection is to the *status* of the person objected to, *e.g.*, that he has received parochial relief during the qualifying period, it is not sufficient to state that it is grounded on any particular column of the list (*x*). It was argued in one case that a specific statement of the grounds of objection was not necessary in a notice of objection to twelve pound occupiers in counties, but the contrary was held (*y*). There can be now no doubt that it is necessary in all cases of objection to occupation voters in counties that the notice of objection to be given to the person objected to should specify the grounds of the objection, because that is expressly so provided by the Registration Order, 1895 (*z*).

**(c.) Specification of list to which objection refers.**—All notices of objection should in every case, if there is more than one list, specify the list to which the objection refers; and if the list contains two or more persons of the same name, should distinguish the person intended to be objected to. If the list referred to is made out in divisions, it is also necessary that the notice of objection should specify the division to which the objection refers; and if the list contains two or more persons of the same name, should distinguish the person intended to be objected to (*a*).

The "divisions" here mentioned are the sort of divisions pointed out by section 15 of the Parliamentary and Municipal

(*t*) County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), ss. 6, 8; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 26.

(*u*) *Simcy v. Dixon* (1871), L. R. 7 C. P. 190.

(*x*) *Quinlan v. M'Carthy*, (1890) 28 L. R. Ir. 246.

(*y*) *Bennett v. Bennet*; *Alderson's case* (1868), L. R. 4 C. P. 407.

(*z*) Sched. 2, Form (L.), No. 2.

(*a*) Registration Order, 1895, Scheds. 2 and 3, Forms (L.), No. 2, note.

Registration Act, 1878 (*b*), and are not parochial divisions or local divisions of any kind, but the divisions of the occupiers' list: Division I. being for persons entitled both to be registered as parliamentary occupation electors other than lodgers, and to be enrolled as burgesses or registered as county electors: Division II. for those entitled to be registered as parliamentary occupation electors other than lodgers, but not to be enrolled as burgesses or registered as county electors; and Division III. for those entitled to be enrolled as burgesses or registered as county electors, but not to be registered as parliamentary electors; and the words in the note to this form are clearly directed to those three distinctions (*c*).

Before the passing of the Registration Act, 1885 (*d*), it was not necessary in a notice of objection to a parliamentary voter in a county to specify the list to which the objection referred (*e*). This was because, previously to the passing of the Representation of the People Act, 1867 (*f*), there was only one such list in counties, although since the passing of that Act there has been more than one list of voters to which an objection might refer, but no provision was made having regard to this alteration. Now, however, the foot-note appended to the prescribed forms of notices of objection in respect of the occupation franchise in counties requires that, if there is more than one list, the notice of objection in every case should specify the list to which the objection refers, just as is required in notices of objection in boroughs, and if the list is made out in divisions, the notice of objection must specify the division to which the objection refers.

In the City of London, before the passing of the Parliamentary and Municipal Registration Act, 1878 (*g*), it was not necessary that notices of objection should specify the list to which the objection referred, because although there was more than one list, only one list was previously to the passing of the Representation of the People Act, 1867, made out by the overseers, the others being made by the clerks of the several companies (*h*).

But since the passing of the Representation of the People Act, 1867 (*f*), more than one list in the City of London has been made

(*b*) 41 & 42 Vict. c. 26.

(*c*) See the judgment of Lord COLERIDGE, C.J., in *Hall v. Cropper* (1879), 5 C. P. D. 81. See also *Hartley v. Halse* (1888), 22 Q. B. D. 200.

(*d*) 48 & 49 Vict. c. 15.

(*e*) *Charlton v. Johnson*; *Re's case* (1868), L. R. 4 C. P. 400.

(*f*) 30 & 31 Vict. c. 102.

(*g*) 41 & 42 Vict. c. 26.

(*h*) *Wansley v. Perkins*; *Quigley's case* (1845), 7 M. & G. 127.



out by the overseers, and by the foot-note to the forms prescribed by the Parliamentary and Municipal Registration Act, 1878 (*g*), which was repeated in terms in the Registration Act, 1885 (*i*), and again in the Registration Orders of 1889 and 1895, after the forms of notices of objection to parliamentary electors in any borough as therein prescribed, it is required that the notice of objection must specify the list to which the objection refers, and if the list is made out in divisions, the division also.

If the notice of objection does not specify the list to which the objection refers, and there are only two lists to which it could refer, in only one of which the name of the person objected to appears, the notice of objection is nevertheless insufficient (*k*).

But in the peculiar case of *Aldridge v. Medwin*, decided in 1868 under very peculiar circumstances, where the name of the person objected to appeared on one of two lists, and there were only two lists of voters for the borough, and the name of the objector was the only name upon one of such lists, and it was proved that the overseers knew perfectly well that the objection was not intended to refer to such last-mentioned list, and were not misled or delayed by it, the Court refused to reverse the decision of the revising barrister that the notice of objection, which did not specify to which of such lists it referred, was sufficient (*l*).

A mere inaccuracy of description in specifying the list to which the objection refers will not prejudice the notice, if the list be described so as to be commonly understood within section 101 of the Parliamentary Registration Act, 1843 (*m*). So where the list of voters was specified as "the list of voters for the parish of St. Thomas, New Sarum, in the southern division of the county of Wilts," there being but one list of voters for the southern division of the county of Wilts, in the parish of St. Thomas, New Sarum, it was held that the notice was sufficient, although it would have been more correct to specify the list as "the list of voters in the parish of St. Thomas, New Sarum, for the southern division of the county of Wilts" (*n*).

With reference to the note to forms of notices of objection under the Parliamentary and Municipal Registration Act, 1878 (*o*), which is in almost the very same terms as the note to the forms of notices

(*i*) 48 & 49 Vict. c. 15.

(*k*) *Barton v. Ashley* (borough) (1845), 2 C. B. 4.

(*l*) *Aldridge v. Medwin* (1868), L. R. 4 C. P. 464.

(*m*) 6 & 7 Vict. c. 18.

(*n*) *Lambert v. The Overseers of St. Thomas, New Sarum* (1852), 12 C. B. 642.

(*o*) 41 & 42 Vict. c. 26.

of objection now used (*p*), it was held that the list to which the objection refers was sufficiently specified if it was specified with reference to the character of the qualification which is the subject of such list or division, although such list was not specified with reference to the particular parish or township to which it related. So in the cases of *Mortlock v. Farrer* and *Hall v. Cropper*, decided in 1879, where the notices of objection specified the lists to which the objections in each case referred as the occupiers' list, etc., for the borough without naming the particular parish within the borough, the notices were held sufficiently to specify the lists to which the objection in each case referred (*q*). A much earlier case illustrates one good reason for this decision, viz., that the note originally applied only to the notice to be given to the overseers. This is the case of *Huggett v. Lewis*, decided in 1854, in which the facts were that in the City of Westminster the overseers were at the time required to make out two lists, one of the persons entitled to vote by virtue of the Reform Act, the other of persons entitled to vote in respect of rights other than those conferred by the Reform Act, *i.e.*, reserved rights. There was therefore more than one list to which an objection might refer. But it was unnecessary to specify the list to which the objection referred by the name of the parish or township, for there was but one to the overseers of which the notice was given. The list to which the objection referred was specified as "the list of persons entitled under the Reform Act to vote in the election of members for the City of Westminster." This was held a sufficient specification (*r*).

Under the Parliamentary Registration Act, 1843 (*s*), the note requiring that the list to which the objection refers should be specified, although appended to the form of notice of objection to be given to the overseers in Schedule B., No. 10, was not repeated as to the form of notice to be given to the party objected to, Form No. 11; and in the case of *Allen v. House*, decided in 1845, the objector added words by way of specifying the list to which the objection referred, which were not then necessary. Such additional words not being misleading, the notice was held to be good in spite of the addition (*t*). It seems that the same principle would apply at the present time if any unnecessary but not misleading words were to be added to a notice otherwise good and sufficient.

(*p*) Registration Order, 1895, Sched. 3, Forms I.

(*q*) *Mortlock v. Farrer*, *Hall v. Cropper* (1879), 5 C. P. D. 73.

(*r*) *Huggett v. Lewis* (1854), 15 C. B. 245.

(*s*) 6 & 7 Vict. c. 18.

(*t*) *Allen v. House* (1845), 7 M. & G. 157.

(d.) **Date, signature, and address of objector.**—Every notice of objection should be dated, though not necessarily by the person giving the same, but it must be signed by the person giving the same, and under his signature he should state his place of abode in such a manner as would afford a full and sufficient address if a letter is addressed to him by post.

The notice need not be dated on the same day as the day on which it is signed, but the notice must bear the date of a day within the limits within which a notice of objection can lawfully be given, and must also be signed by a person having a right to object at a time when he has such a right (*u*). The date of the year ought to be properly filled in, otherwise the notice is insufficient and possibly misleading, and is an invalid notice (*x*).

The notice of objection must be signed by the person so objecting, but as the object of this requirement is merely to authenticate the document, it is sufficient if the objector himself affix his name to the notice by impressing it with a stamp upon which is engraved his ordinary signature (*y*). Although the signature of the notice is such that an ordinary person unacquainted with the handwriting of the objector could not by perusing it with ordinary diligence and skill arrive at any reasonable conclusion what name it was intended to designate, the notice is not necessarily for that reason invalidated (*z*). If the name of the objector as inserted in the list of voters is misspelt owing to the negligence of the overseers, and the notice of objection is signed by him in his own name properly spelt, it is a question of fact for the revising barrister whether the name of the objector as published in the list can be said to be commonly understood as meaning the objector. If so, it is no objection to the notice of objection that it is signed by the objector in his own name properly spelt (*a*). All difficulty can, of course, be avoided by signing the true name and writing underneath it that the objector is on the register or list of electors for the parish or township specified, by the name as misspelt in that register or list.

The place of abode of the objector as stated after his signature

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(*u*) *Jones v. Jones* (county) (1865), L. R. 1 C. P. 140, dissenting from the previous Irish case of *Parkinson v. Brophy* (1864), 15 Ir. C. L. 346. And since then the Irish Court of Appeal have approved of *Jones v. Jones* in *Kenny v. Kenealey*, [1895] 2 I. R. 544.

(*v*) *Beaumont v. Hockin* (borough) (1846), 4 C. B. 19; *Freeman v. Newman* (county) (1883), 12 Q. B. D. 373.

(*y*) *Bennett v. Brumfit* (borough) (1867), L. R. 3 C. P. 28.

(*z*) *Trotter v. Walker* (1862), 13 C. B. (N.S.) 30.

(*a*) *Hinton v. Hinton* (1845), 7 M. & G. 163.

to the notice of objection ought to be his true place of abode, and not his place of abode as described in the list, if such place is not his true place of abode, or if he has changed his place of abode since the list was made (*b*). If the objector has *bonâ fide* two places of abode as described in the list, he may state either. But if at the time of signing the notice of objection the objector be actually residing at one place, and states his place of abode to be at another, the question whether the place of abode as stated is also his *bonâ fide* place of abode, as well as the place at which he is actually residing, is a question of fact rather than of law (*c*). If the objector state his place of abode as described in the list, which is to that extent truly described, it is sufficient in point of law, provided it be also sufficient in point of fact; that is to say, the person alleging that it is insufficiently described must at least show that he has been misled or put to some inconvenience before he can argue that as a description such description is insufficient (*d*). The notice is not vitiated by reason of the description of the place of abode of the objector giving further particulars than appear by the register, so long as such additional particulars are not misleading (*e*). The description of the place of abode of the objector as stated on the notice must be sufficient in itself, without compelling the party receiving it to resort to other sources than the notice itself in order to obtain the necessary information, as, for instance, to the register (*f*). The sufficiency of the description of the objector's place of abode is a question of fact to be decided upon the evidence before him by the revising barrister (*g*). If the revising barrister is satisfied upon the evidence before him that a

(*b*) *Melbourne v. Greenfield* (county) (1859), 7 C. B. (N.S.) 1; *Calver v. Roberts* (county) (1871), 1 Hopw. & Colt. 616; *Knowles v. Brooking* (borough) (1846), 2 C. B. 226; *Wills v. Adey* (borough) (1846), 2 C. B. 246.

(*c*) *Curtis v. Blight* (borough) (1861), 11 C. B. (N.S.) 95.

(*d*) *Gadshy v. Warburton* (county) (1844), 7 M. & G. 11.

(*e*) *Pruen v. Cox* (1845), 2 C. B. 1.

(*f*) *Woollett v. Davis* (county) (1847), 4 C. B. 115; *Humphrey v. Earle* (county) (1887), 20 Q. B. D. 294.

(*g*) *Jones v. Pritchard* (county) (1868), L. R. 4 C. P. 414. It seems that there can be no doubt about this, although there was in *Jones v. Pritchard* an objection in law to the notice of objection which would have been fatal if it had been taken, and the Court would have decided the case the other way. The report in 1 Hopw. & Colt. 91, shows that the objection to which the notice related was an objection to the voter's alleged qualification as a twelve pound occupier, and that the form of the notice was in accordance with 6 & 7 Vict. c. 18, Schedule A., Form 5, whereas it should have been in accordance with 28 & 29 Vict. c. 36, Schedule A., Form 2. The form of the notice being such as it was, was bad in law for not showing the grounds of the objection. *Burnett v. Brumfit*; *Alderson's case* (1868), L. R. 4 C. P. 407. See Saint Reg. Cas. ed. 3, p. 276, n.



letter addressed to the objector at that address, and placed in the post office, would have reached the objector in due course, or that the description is such that the person objected to could easily have found the objector if he had gone to the place described, the description is sufficient (*h*). The decision of the revising barrister is conclusive, unless the Court can see upon the facts as stated by him that his conclusion was manifestly wrong (*i*). The total omission of the objector's place of abode will not necessarily invalidate a notice of objection. If the revising barrister find as a fact that no one is misled or deceived by the omission, he may correct it as a mistake under section 28 of the Parliamentary and Municipal Registration Act, 1878 (*k*). Thus, in the case of *Adams v. Bostock*, decided in 1881, the objector's place of abode, as described in the list, was "Horsham," and in the notices of objection he signed his name as "on the list of parliamentary voters for the parish of Horsham," but did not state his place of abode. It also appeared that the borough of Horsham comprised the greater part of the parish of Horsham, and was wholly contained in it; that the objector was well known in Horsham, and held several official positions there; and that there was no other person of the same name on the list of parliamentary voters. The revising barrister found as a fact that none of the persons objected to were misled or deceived by the omission, and amended the notice. The Court refused to reverse his decision (*l*). And in the case of *Hicks v. Stokes*, decided in 1892, notices of objection to county voters were signed "John Badgery (place of abode) Burnard's Terrace, on the register of electors for the township of Bodmin Borough," without stating that Burnard's Terrace was in Bodmin. The revising barrister held that if the address was insufficient, yet that as fact no one had been misled or inconvenienced by the omission, and he amended the notices, and the Court refused to reverse his decision (*m*).

**(e.) Specification of list on which objector's name appears.**

—In every notice of objection the objector should state, after the statement of his place of abode, that he is on some list of voters which gives him a right to object. It is not sufficient to state that he is on the list of voters for a particular parish or township.

(*h*) *Thackway v. Pilcher* (borough) (1866), L. R. 2 C. P. 100.

(*i*) *Sheldon v. Fletcher* (borough) (1847) 5 C. B. 14.

(*k*) 41 & 42 Vict. c. 26, extended to counties by Registration Act, 1885 (48 Vict. c. 15), s. 1.

(*l*) *Adams v. Bostock* (1881), 8 Q. B. D. 259.

(*m*) *Hicks v. Stokes*, [1893] 1 Q. B. 124.

In notices of objection to parliamentary voters, it is necessary to state also that the objector is on some list of parliamentary voters, in order to show that he has a right to object, which he would not have if he was on a list or division of a list of burgesses or county electors only; and in notices of objection to burgesses or county electors it is necessary also to state that the objector is on some list of burgesses or county electors for the county.

The omission of the word "parliamentary" in case of an objection to a parliamentary voter may be under the circumstances a mistake which the revising barrister may amend under section 28 of the Parliamentary and Municipal Registration Act, 1878 (*n*). This, however, will depend upon the circumstances (*o*). From the case of *James v. Howarth*, decided in 1879, it appears that it is not necessary in any case, if the objector be described as on the list of voters for the particular parish or township, that if there be more than one list for such parish or township which would give a person on it the right to object, the particular list or division upon which the objector's name appears should be specified (*p*). But the particular parish or township on the list of voters for which the name of the objector appears must be specified, because otherwise the person objected to might have to search all the lists for every parish or township in the borough (*q*). The decision in the case of *James v. Howarth* has been supposed to overrule some of the earlier cases which are not referred to in the judgments, although one or two were referred to in the arguments (*r*). This does not seem upon an examination of those cases to be the fact. It is strictly in accordance with the case of *Samuel v. Hitchmough*, decided in 1862. In *Samuel v. Hitchmough* the objector described himself in his notice of objection as on the list of voters for the parish of St. Paul, without specifying which list, and there were two lists of voters made out for that parish. It was held that the description was sufficient (*s*). So also in 1871, in the case of *Chorlton v. Tonge*, where a township was divided into several polling districts, and separate lists of voters were made for the separate polling districts it was held that a notice of objection in which the objector described himself as on the register of voters for the township

(*n*) 41 & 42 Vict. c. 26.      (*o*) See *James v. Howarth* (1879), 5 C. P. D. 225.

(*p*) *James v. Howarth* (borough) (1879), 5 C. P. D. 225.

(*q*) *Wood v. Chandler* (borough) (1887), 20 Q. B. D. 297.

(*r*) See *per* DENMAN, J., in *Adams v. Bostock*, 8 Q. B. D. at p. 261.

(*s*) *Samuel v. Hitchmough* (borough) (1862), 13 C. B. (N.S.) 3.

in question, without specifying the particular polling district, was sufficient (t).

The case of *Crowther v. Bradney*, decided in 1863, is not in conflict with these decisions. In *Crowther v. Bradney* the objector described himself as on the list of persons entitled to vote in the election of a member for the borough of Kidderminster in respect of property occupied in the parish of Kidderminster. The ancient parish of Kidderminster consisted of the borough of Kidderminster, the foreign of Kidderminster, and the hamlet of Lower Mitton, for each of which separate and distinct overseers and other parochial officers were appointed and separate rates made. The hamlet of Lower Mitton formed part of the parliamentary borough of Bewdley. The borough of Kidderminster and the foreign of Kidderminster formed the parliamentary borough of Kidderminster, and separate lists were made out in respect of each. It was held that since the borough of Kidderminster and the foreign were in fact separate parishes, the objector ought to have described himself as on the list of voters for one or other of such parishes according to the proper form of notice of objection, whereas his notice merely described him as on the list of persons entitled to vote for a member for the borough; and the addition of the words in respect of property occupied within the parish of Kidderminster did not give any additional information, but might be misleading, for the hamlet of Lower Mitton was in the ancient parish of Kidderminster, but not within the parliamentary borough (u).

The cases of *Tudball v. The Town Clerk of Bristol* (x), *Eidsforth v. Farrer* (y), and *Bright v. Devenish* (z), are also distinguishable from *James v. Howarth*, and merely show that if the objector is not on any list of voters for any parish or township properly speaking, but is on the list of freemen for the whole borough, which is made out by the town clerk, he must so describe himself, and not as on the list for a particular parish or township, or generally as on the list of voters for the borough. It seems that it would be a sufficient description if the objector, being on the list of freemen entitled to vote in the election of members of Parliament for a borough which is municipal as well as parliamentary, and in which there is consequently a freeman's roll kept

(t) *Chorlton v. Tonge* (county) (1871), L. R. 7 C. P. 178.

(u) *Crowther v. Bradney* (borough) (1863), 15 C. B. (N.S.) 536; Cp. *Wood v. Chandler* (borough) (1887), 20 Q. B. D. 297.

(x) (1843), 5 M. & G. 6.

(y) (1846), 4 C. B. 9.

(z) (1866), L. R. 2 C. P. 102.

pursuant to sections 203 and 209 of the Municipal Corporations Act, 1882 (*a*), as well as a list of freemen entitled to vote in parliamentary elections, were to describe himself as on the list of freemen for such city or borough, without saying on the list of freemen entitled to vote at the election of members of Parliament for such city or borough (*b*).

The following cases may serve as examples of sufficient specifications of the list on which the name of the objector appears. In *Oram v. Cole*, decided in 1864, it appeared that the borough of Devonport consists of the parish of Stoke Damerel and the parish or township of East Stonehouse. The objector described himself as on the list of voters for the borough of Devonport and the township of East Stonehouse. This was held to be a sufficient description (*c*). In *Moon v. Andrew*, decided in 1868, the case stated that the parliamentary borough of Penryn consists of the municipal borough of Penryn, the parish of St. Gluvias, the parish of Myler, the town of Falmouth, the parish of Falmouth, and the parish of Budock. In all these six places were separate overseers and separate lists. In the municipal borough of Penryn were two separate lists. The name of the objector appeared on both these lists. He described himself as on the list of voters for the borough of Penryn. This was held to be a sufficient description (*d*). In *Allen v. Geddes*, decided in 1870, it appeared that the borough of Warrington consists of three townships, Warrington, Latchford, and Thelwall, each having a separate overseer and a separate list of voters. In the township of Warrington is a street called Golborne Street, lying wholly within that township, and there is no other street of the same name within the borough. The objector described himself as on the list of voters for Golborne Street, in the borough of Warrington. The revising barrister found that this description would be commonly understood in the borough as designating the list for the township of Warrington, and he held the description sufficient. The Court refused to reverse his decision (*e*). In *Sargent v. Rodd*, decided in 1879, it appeared that the parliamentary borough of Liskeard consisted of three separate localities, each having separate parochial officers

(a) 45 & 46 Vict. c. 50.

(b) *Feddon v. Savryers* (1852), 12 C. B. 680 (MAULE, J., *diss.*).

(c) *Oram v. Cole* (1864), 18 C. B. (N.S.) 1.

(d) *Moon v. Andrew* (1868), L. R. 4 C. P. 461.

(e) *Allen v. Geddes* (1870), L. R. 5 C. P. 291.



and rates, one being the municipal borough of Liskeard, the second comprising so much of the parish of Liskeard as was not within the municipal borough of Liskeard, and the third a part of the parish of St. Cleer. The objector was on the list of parliamentary voters for the first-mentioned locality, viz., the municipal borough of Liskeard, and in the notice of objection the list on which his name appeared was specified as "the list of parliamentary voters for the parish of the borough of Liskeard." It was contended that this was misleading, but the court thought that as the notice followed the precise words of Form (I.), No. 2, in the schedule of the Parliamentary and Municipal Registration Act, 1878, and as the revising barrister had held it to be sufficient, that the decision of the revising barrister should be affirmed (*f*).

(*f*.) **Withdrawal of objections.**—Before the passing of the Parliamentary and Municipal Registration Act, 1878 (*g*), it was not competent to objectors in counties and boroughs respectively to withdraw objections once made (*h*). But by section 27 of that Act, afterwards extended to objections to parliamentary voters in counties by section 1 of the Registration Act, 1885 (*i*), and to objections to county electors by section 4 of the County Electors Act, 1888 (*k*), an objection may be withdrawn by a notice in writing to that effect signed by the objector and given to the person objected to, and to the town clerk in boroughs, or the overseers in counties, not less than seven days before the day appointed for the holding of the first court for the revision of the list to which the objection relates (*l*).

(*g*.) **Revival of objections.**—By the same sections of the same Acts an objection by a qualified objector may after his death be revived by any other person qualified to have made the objection originally by a notice in writing (*m*) to that effect signed by him and given to the person objected to, and to the town clerk in boroughs or the overseers in counties, at or before the time of the revision of the entry to which the objection relates.

(*f*) *Sargent v. Rodd* (1879), 49 L. J. C. P. 195.

(*g*) 41 & 42 Vict. c. 26.

(*h*) See *Proudfoot v. Barnes* (1866), L. R. 2 C. P. 88.

(*i*) 48 & 49 Vict. c. 15.

(*k*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4.

(*l*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 27; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4; Registration Order, 1895, Scheds. 2 and 3, Forms N.

(*m*) Registration Order, 1895, Scheds. 2 and 3, Forms O.

## 3. SERVICE OF NOTICES.

A notice of claim or objection may be given to the person for whom it is intended in one of three ways:—

## (a.) By personal service.

In the case of a notice to overseers, it is sufficient if the notice be delivered to any one of them.

## (b.) By leaving it at his place of abode.

In the case of a notice of objection to be given to the person objected to, it must be left at his place of abode, “as described in the list.”

In the case of a notice to overseers, it may be left at the place of abode of any one of them, or at his office or other place for transacting parochial business.

(c.) By posting it in the manner prescribed by section 100 of the Parliamentary Registration Act, 1843 (*n*).

(a.) **Personal service.**—Personal service means the actual delivery of the notice to the person for whom it is intended, but it is not necessary that it should be delivered by the person making the claim or objection.

(b.) **Service at place of abode.**—Where the notice is served by leaving it at the place of abode of the person for whom it is intended, it must, in the case of a notice of objection to be given to the person objected to, be left at his place of abode as described in the list. It was decided in *Allen v. Greensill*, in 1847, that if the notice is left on the qualifying property not being the place of abode as described in the list the service is not sufficient (*o*). The Court, however, went so far as to say that if the place of abode of the person objected to as described in the list is therein wrongly described by the mistake of the overseers, the notice of objection is not properly served by being left at such place; and that if the objector chooses to select service at the place of abode as described in the list, he must take the risk of its turning out not to be the true place of abode. He may always guard himself against mistakes by a personal service, or by sending the notice by post in the manner prescribed by section 100 of the Parliamentary Registration Act, 1843 (*n*). The decision in *Allen v. Greensill*, has since been followed and approved in *Gifford v. The Overseers of St. Luke's, Chelsea*, decided in 1889, where the facts were that an objector caused the notice of objection to be placed in the letter-box at the house stated in the list to be the place of

(a) 6 & 7 Vict. c. 18. (o) *Allen v. Greensill* (borough) (1847), 4 C. B. 100.

abode of the person objected to. It appeared, however, that the person objected to had not resided in the house for the last two years, and that the objector did not know his true address, and that there was no reason to suppose that the notice reached or was likely to have reached the person objected to. And the Court held that there had not been sufficient service of the notice (*p*). The time and mode of service, when the notice is left at the place of abode of the person for whom it is intended, must be such as to afford a reasonable ground for presuming that the notice will reach the hands of the party for whom it is intended. Whether the time and mode of service does afford such reasonable ground or not is a question of fact to be decided by the revising barrister, and the Court will not interfere with his conclusion. For instance, in the case of *Watson v. Pitt*, in 1848, it appeared that the person charged with the duty of serving a notice of objection went to the place of abode of the person for whom it was intended, as described in the list, between the hours of nine and ten o'clock in the evening of the last day for serving such notices, and knocked several times at the door; and that, no one answering him, he put the notice inside the door and there left it. The revising barrister decided that this was not a sufficient service, and the Court refused to reverse his decision (*q*). The leading principle of *Watson v. Pitt*, viz., that the time and mode of service must afford a reasonable ground of presumption that the notice will reach the person objected to, was followed by the Irish Court of Appeal in *Mayee v. Mortimer*, decided in 1890. There an objector attempted to serve a notice of objection by putting the notice under the door of the house which was described in the list as the place of abode of the person objected to, but he knew at the time that the person objected to did not reside there and knew also where he resided, and that there was no probability of his getting the notice so put under the door of the place of abode as described in the list. And the Court held that the notice of objection had not been duly served (*r*).

(c.) **Service by post.**—The manner of posting a notice, as prescribed by section 100 of the Parliamentary Registration Act, 1843, is as follows:—It must be “delivered duly directed, open,

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(*p*) *Gifford v. The Overseers of St. Luke's, Chelsea* (1889), 24 Q. B. D. 141. This case is criticised by the Irish Court of Appeal in *Mayee v. Mortimer* (1890), 28 L. R. Ir. 251.

(*q*) *Watson v. Pitt* (1848), 5 C. B. 77.

(*r*) *Mayee v. Mortimer* (1890), 28 L. R. Ir. 251.

and in duplicate, to the postmaster of any post-office where money orders are received and paid, within such hours as shall have been previously given notice of at such post-office, and under such regulations (*s*), with respect to the registration of such letters, and the fee to be paid for such registration (which fee shall in no case exceed twopence over and above the ordinary rate of postage), as shall from time to time be made by the Postmaster-General in that behalf; and in all cases in which such fee shall have been duly paid, the postmaster shall compare the said notice and the duplicate, and on being satisfied that they are alike in their address and in their contents, shall forward one of them to its address by the post, and shall return the other to the party bringing the same, duly stamped with the receipt of the post-office" (*t*). The notice may be posted by the clerk or agent of the objector (*u*). The duties of the postmaster under this section are ministerial, and may be performed in the absence of the postmaster by his managing clerk (*v*), and it seems, from the reasons given for this decision, they may be performed by any clerk or servant of the postmaster acting in his aid and assistance, and under his direction and control, whether he be present or not. Although the postmaster is not bound to receive notices out of the usual office hours, of which notice has been given as required by the Act, yet, if he think fit to receive a notice out of those hours, and to perform the acts required of him in respect thereof, it is no objection to the validity of the notice so given (*x*). So also if the day be Sunday (*y*).

A notice of claim, or a notice of objection to be given to overseers, and sent to the overseers by post, may be addressed to the overseers of the particular parish or township, naming the parish or township, and the county, city, or borough respectively, to which the notice to be so sent may relate, without adding any place of abode of such overseers (*z*). A misnomer or inaccurate description of the overseers in the address will not invalidate the

(*s*) These regulations will be found at the end of the Appendix to this work.

(*t*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 100; applied to notices of objection under County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 9; and to notices of objection under Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 40.

(*u*) *Cunning v. Toms* (1844), 7 M. & G. 29.

(*v*) *Allan v. Waterhouse* (1844), 8 Scott, N. R. 68.

(*x*) *Hannaford v. Whiteaway* (1856), 1 C. B. (N.S.) 53.

(*y*) *Paddon v. Whiteaway* (1856), 1 C. B. (N.S.) 62.

(*z*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101.



notice if the overseers be so denominated as to be commonly understood (*z*). So in the case of *Elliott v. The Overseers of St. Mary Within, Carlisle*, decided in 1847, where it appeared that the parish of St. Mary Within, Carlisle, consisted of four divisions, popularly but improperly called townships, under the names of Abbey Street, Castle Street, Fisher Street, and Scotch Street. And there were four overseers, one chosen from among the inhabitants of each division, but all appointed generally for the whole parish, and the overseers by arrangement between themselves acted separately, one for each division. It was held that a notice of claim addressed to "the overseers of the township of Scotch Street," must be taken to be addressed to the overseers of the whole parish of St. Mary Within, and that the persons denominated as "the overseers of the township of Scotch Street" were commonly understood to be the overseers of the whole parish of St. Mary Within (*a*).

But a notice of objection to be given to the person objected to and sent to him by post in the manner prescribed by section 100 of the Parliamentary Registration Act, 1843, must be addressed to him at his place of abode, as described in the list (*b*). This means merely the place of abode as entered in the column for that purpose opposite to the name of the person intended to be objected to, and it is not necessary to add the name of the parish or township to which the list relates as contained in the heading of the list (*c*). Nor is it necessary to add the name of the post town and county, as it is apparently the duty of the postmaster or his clerk to ascertain the proper post town and forward the notice accordingly (*d*). But it will not vitiate the notice if the name of the post town and county is added to the address after the place of abode as described in the list (*e*). From the case of *Noseworthy v. The Overseers of Buckland-in-the-Moor*, decided in 1873, it may be inferred that it does not matter if the place of abode of the person intended to be objected to as described in the list is incorrect, the object of the statutory method of service being to enable an objector to get rid of that difficulty (*f*).

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(*a*) *Elliott v. The Overseers of St. Mary Within, Carlisle* (1847), 4 C. B. 76.

(*b*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101.

(*c*) *Flint v. Sharp* (1855), 17 C. B. 281.

(*d*) *Finnegan v. Caran* (1879), 6 L. R. Ir. 137; *Moore v. Forrest* (1879), 6 L. R. Ir. 142.

(*e*) *Cotton v. Prall* (1866), L. R. 2 C. P. 86.

(*f*) See the facts of this case, *post*, p. 347.

## CHAPTER II.

## REVISION.

## I.—REVISING BARRISTERS.

## 1. TENURE OF OFFICE.

REVISING barristers are appointed yearly, and their number may be increased or decreased by Order in Council, under section 3 of the Revising Barristers Act, 1873 (*f*).

(1) **Appointment.**—In the county of Middlesex, the City of London, and the several boroughs of the county of Middlesex, the revising barristers are appointed by the Lord Chief Justice of England, in the months of July and August. In every other county, city, and borough, the revising barristers are appointed by the senior judge in the commission of assize for the county actually travelling the summer circuit (*g*). Where a borough is situate in two circuits, the senior judge of the circuit to which the larger part in extent of such borough belongs has the appointment (*h*). Birmingham is deemed to be part of the Midland circuit for the purposes of the appointment of revising barristers; and so long as a separate commission of assize is issued for the county of Surrey, that county is deemed to be a separate circuit for this purpose. The county of Surrey and such portion of the county of London as is situate south of the Thames are to be deemed to be separate counties forming part of the south-eastern circuit; and such portion of the administrative county of London as is situate north of the Thames is to be deemed to form part of the county of Middlesex; and the county of Middlesex, inclusive of that portion, is to be deemed to be a separate county on a circuit; but any sum payable by the London County Council in respect of either of the said portions of the county shall be paid as for a general county purpose (*i*). Where any judge (including the Lord Chief Justice) appoints barristers for counties and boroughs

(*f*) 36 & 37 Vict. c. 70. At the present time the number is fixed at ninety-seven, by an Order in Council dated the 15th day of August, 1890. (St. R. & O. 1890, p. 947).

(*g*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 28; Revising Barristers Act, 1886 (49 & 50 Vict. c. 42), s. 1; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 10.

(*h*) Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 25.

(*i*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 10; Local Government Act, 1886 (51 & 52 Vict. c. 41), s. 76 (4).

on any circuit, he must appoint them to act for all the counties and boroughs for which he has power to appoint revising barristers; and each barrister, when acting for any county or borough, has in all respects the same powers, duties, rights, and authorities as if he had been appointed sole revising barrister for such county or borough (*k*).

(2) **Qualifications.**—The necessary qualifications for the appointment are, that the barrister should be of not less than seven years' standing (*l*), and should not be a member of Parliament, nor the holder of any office or place of profit under the Crown, except the office of recorder of any city or borough (*m*), and except the office of Corrupt Practices Commissioner (*n*). A barrister, being the recorder for any city or borough, may be appointed revising barrister for the same city or borough (*o*).

(3) **Salary.**—The salary of a revising barrister is fixed by section 9 of the County Electors Act, 1888, at the sum of two hundred and fifty guineas, by way of remuneration to him, and in satisfaction of his travelling and other expenses, which sum is paid to him by order of the Commissioners of the Treasury upon his forwarding his appointment after the end of his last sitting (*p*).

(4) **Substitutes.**—In case of the death, illness, or absence of any revising barrister, the Lord Chief Justice or judge who appointed him may appoint a substitute, who is to be paid out of the sum payable to the barrister originally appointed such sum as the Lord Chief Justice or judge may think reasonable (*q*).

(5) **Additional barristers.**—If at any time after September 1st in any year it is made to appear to one of Her Majesty's principal Secretaries of State that the number of revising barristers appointed on any circuit (including in that expression Middlesex and the boroughs therein and the City of London) is insufficient, he is to signify such fact by notice under his hand to the Lord Chief Justice or any judge of the High Court of Justice then sitting in chambers, and thereupon the Lord Chief Justice or other judge is to appoint such number of duly qualified barristers as are specified in such notice to act in addition to the barristers

(*k*) Revising Barristers Act, 1886 (49 & 50 Vict. c. 42), s. 2 (4).

(*l*) Revising Barristers Act, 1874 (37 & 38 Vict. c. 53), s. 6.

(*m*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 28.

(*n*) Revising Barristers Act, 1866 (29 & 30 Vict. c. 54).

(*o*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 163 (6).

(*p*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 9.

(*q*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 29;

Revising Barristers Act, 1874 (37 & 38 Vict. c. 53), s. 1.

originally appointed for such circuit, and a barrister so appointed is to have in all respects the same duties, powers, rights, and authorities as if he had been originally appointed, and to be paid at the rate of five guineas for every day that he is employed, and three guineas more for travelling and other expenses (*r*), the total amount, however, not to exceed two hundred and fifty guineas in all (*s*).

(6) **Costs.**—The total cost of the revising and additional revising barristers on the various circuits is ascertained yearly by the Treasury, and one-half of it is apportioned by the Treasury among the administrative counties and county boroughs comprised in the circuit in proportion to the number of county electors and burgesses in each county and county borough respectively, the Treasury certifying on such apportionment the sum which each county and county borough is to contribute into Her Majesty's Exchequer out of the county or borough fund, towards recouping such half of the total cost. The other half of the total cost is paid by the Treasury out of moneys provided by Parliament for that purpose (*t*).

(7) **Notification of appointment.**—The first duty of the revising barrister is to notify his appointment to the clerks of the peace and town clerks of the places for which they are appointed to revise, in order that the clerks of the peace and town clerks may forward their abstracts to the barrister, to assist him in fixing the times and places of holding his court for revision (*u*).

## 2. COURTS OF REVISION.

Revising barristers must hold their courts between September 8th and October 12th (*x*).

(1) **Notices of time and place.**—They must give seven days' notice to the clerks of the peace and to the town clerks, respectively, of the times and places at which they intend to hold their courts, and of the parishes the lists for which will be revised at each of such courts (*y*).

(2) **Places of holding courts.**—In counties, the revising barrister is required, if practicable, to complete the revision of the

(*r*) Revising Barristers Act, 1886 (49 & 50 Vict. c. 42).

(*s*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 9.

(*t*) County Electors Act, 1888 (51 & 52 Vict. c. 10), ss. 9, 11.

(*u*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 31. And see *ante*, p. 283.

(*x*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6.

(*y*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 32, 33; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (1).



lists of voters for the parishes in one polling district before proceeding to revise the list of voters for any parish in any other polling district (z). The revising barrister ought, therefore, in counties to arrange the places at which he intends to hold his court, and the parishes the lists for which will be revised at each of such courts, with reference to this enactment. In counties open courts must be held at all polling places, or at such polling places as the county council has named under section 34 of the Representation of the People Act, 1867 (*a*), and at any other places within the county which the revising barrister may think expedient, and also in any town near a polling district, but outside the boundary of the county, at which the local authority having power to assign polling-places in the county may direct under section 4 of the Registration Act, 1885 (*b*). The revising barrister for revising the county electors' list for the whole or any part of an electoral division of any county shall, if so required by the county council, hold a court in that electoral division or at some convenient place in a division adjoining thereto (*c*).

**(3) Evening sittings.**—In any borough, containing, according to the last census for the time being, more than ten thousand inhabitants, and at any place in any county at which the revising barrister is required to hold a court, and which is within an urban sanitary district containing, according to the last census for the time being, more than ten thousand inhabitants, the revising barrister must hold at least one evening sitting, commencing not earlier than six p.m., nor later than seven p.m., and of such duration as the revising barrister may think reasonable. Special notice of such sitting must be published by the town clerk or clerk of the peace in such manner as the revising barrister may direct (*d*).

**(4) Adjournments.**—The revising barrister may adjourn his court from time to time, and from one place to any other place within the same county, city, or borough, so that no adjourned court be holden after October 12th in any year (*e*).

(z) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (6).

(a) 30 & 31 Vict. c. 102; Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (xii.).

(b) 48 & 49 Vict. c. 15.

(c) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2).

(d) Revising Barristers Act, 1873 (36 & 37 Vict. c. 70), s. 4; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (3).

(e) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 41; Revising Barristers Act, 1873 (36 & 37 Vict. c. 70), s. 5; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6.

(5) **How parties may appear.**—Any person entitled to appear may appear either in person or by an agent, who may be a solicitor: and, in order to entitle an agent to appear, it is not necessary that he should have been personally requested to do so by the person for whom he appears (*f*). But no party or other person may appear by or be attended by counsel (*g*). This applies even where counsel wishes to act without fee on behalf of a political association of which he is the president (*h*).

(6) **Witnesses.** The revising barrister may, by summons under his hand, require any assessor or collector of taxes or other officer, or any overseer or overseers of the poor or other persons having the custody of any poor-rate book for any past year, or any assistant overseer or relieving officer (*i*), or any person whatsoever, to attend at the court and give evidence or produce documents for the purpose of the revision (*k*). The revising barrister has power to administer an oath to all persons examined before him, and all parties whether claiming or objecting, or objected to, and all persons whatsoever, may be examined upon oath touching the matters in question (*g*). The form of the oath administered to voters and to all other persons examined before the revising barrister may be as follows, that is to say, “ You shall true answer make to all such questions as the court may demand of you : So help you God.” Parties entitled to make affirmation instead of taking an oath may affirm in the manner provided by the Oaths Act, 1888 (*l*). It will be for the revising barrister to determine whether a party is entitled to affirm (*n*), which is only the case where the party objects to being sworn either because he has no religious belief or because the taking of an oath is contrary to his religious belief (*o*). But a person who has a religious belief to which the taking of an oath is not contrary cannot affirm (*p*), but should be sworn in any way which he states will be binding on his conscience (*q*). And if any person to whom an oath is administered desires to swear with uplifted hand, in the form and manner in which an oath is usually administered in Scotland, he shall be permitted to do so, and the oath shall be administered to

(*f*) *Ford v. Smerdon* (1884), 49 J. P. 760.

(*g*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 41.

(*h*) *O'Connor v. Nicholson* (1891), 1 Fox & Smith, 250.

(*i*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 35, 50 ; Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), ss. 28, 29.

(*k*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 36.

(*l*) 51 & 52 Vict. c. 46.

(*n*) *Reg. v. Moore* (1892), 61 L. J. M. C. 80.

(*o*) Oaths Act, 1888 (51 & 52 Vict. c. 46), s. 1.

(*p*) *Reg. v. Moore, supra.*

(*q*) *Omichund v. Barker* (1745), Willes, 538

him in such form and manner without further question (*r*). In such case, the person swearing should swear standing and holding up his right hand, and should say, "I swear by Almighty God, as I shall answer to God at the great day of Judgment, that I will true answer make to all such questions as the court may demand of me. So help me God." But he need not hold or kiss a Bible (*s*). Persons swearing or affirming falsely are guilty of perjury (*q*). And where an oath has been duly administered and taken, the fact that the person to whom the same was administered had, at the time of taking such oath, no religious belief, does not for any purpose affect the validity of the oath (*t*).

(7) **Fines.**—For every wilful breach or neglect of duty under the Registration Acts, the revising barrister may fine an overseer any sum not exceeding five pounds nor less than twenty shillings (*u*). A great number of these offences are particularly specified in the Acts. For instance, under s. 51 of the Parliamentary Registration Act, 1843, the following offences:—(1) Wilful refusal or neglect to make out any list; (2) wilful neglect to insert therein the name of any person who shall have given due notice of claim; (3) in making out the list of voters in any city or borough, wilfully and without any reasonable cause omitting the name of any person duly qualified to be inserted therein; (4) or wilfully and without reasonable cause inserting therein the name of any person not duly qualified; (5) wilful refusal or neglect to publish any notice or list or copy of the part of the register of voters relating to his parish or township at the time and in the manner required by this Act; (6) wilful refusal or neglect to deliver to the clerk of the peace the copy of the lists of claimants and of persons objected to, and the copies of the register as required by this Act; (7) wilful refusal or neglect to deliver to the town clerk of the city or borough the copies of the several lists as required by this Act; (8) wilful refusal or neglect to attend the court for revising the lists of voters for his parish or township; (9) wilful refusal or neglect to attend any revising barrister when duly required by summons so to do; (10) wilful refusal or neglect to deliver to the revising barrister holding the court for revising the lists for that parish or township, the several

(*r*) Oaths Act, 1888 (51 & 52 Vict. c. 46), s. 6.

(*s*) Home Office Circular to Justices and Coroners, May 31st, 1893.

(*t*) Oaths Act, 1888 (51 & 52 Vict. c. 46), s. 3.

(*u*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 51; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 29; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

lists required to be made out by the overseers under this Act. To these may be added under sections 28 and 29 of the Representation of the People Act, 1867 (*x*), as extended by section 10 of the Parliamentary and Municipal Registration Act, 1878, the following :— (1.) Wilfully withholding from an occupier of premises capable of conferring the franchise, with intent to keep such occupier off the list, the notice as to rates in arrear which must be paid in order to complete his qualification. (2.) Wilful neglect or refusal to make out and allow inspection of a list of such occupiers who are in arrear with such rates. Under section 10 of the Poor Rate Assessment and Collection Act, 1869 (*y*), wilfully and with the like intent withholding the like notices as to rates in arrear where owners have become liable for rates under that Act instead of occupiers. Under section 28 of the Parliamentary Electors Registration Act, 1868 (*z*), (1.) Wilfully refusing or neglecting to produce to the revising barrister at his court for revising the lists of their parish or township all the poor rates made between January 5th in the preceding year and July 31st in the current year. (2.) Having the custody of any poor rates current or past and wilfully refusing or neglecting to attend the revising barrister when required by him to do so, or to answer questions put by him. And under section 9 (3) of the Representation of the People Act, 1884 (*a*), failure to serve notices under that section; but for this offence, the maximum penalty is forty shillings.

Any assessor, or collector of taxes, or other officer, or any overseer or overseers of the poor, or other persons having the custody of any poor-rate book for any past year, or any assistant-overseer or relieving officer, who shall wilfully refuse or neglect when duly required by summons under the hand of the revising barrister to attend the court according to the exigency of such summons, shall upon proof before him of the service of such summons be liable to pay by way of fine for every such offence a sum not exceeding five pounds, nor less than twenty shillings, to be imposed by and at the discretion of the revising barrister (*b*). Any person summoned to attend and give evidence, or produce documents, who, after a tender to him of a reasonable amount for his expenses, fails so to attend, or who fails to answer any question put to him by the revising barrister, or to produce any document which he is required to produce, is liable to pay

(*x*) 30 & 31 Vict. c. 102.

(*y*) 32 & 33 Vict. c. 41.

(*b*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 50.

(*z*) 31 & 32 Vict. c. 58.

(*a*) 48 & 49 Vict. c. 3.



such fine not exceeding five pounds as may be imposed by the revising barrister (*c*).

Fines imposed by the revising barrister must be by order in writing under his hand, stating the sum payable, and by, and to whom, and where, and when, the same shall be paid (*d*). Fines imposed for offences in relation to the register of county or borough voters must be paid accordingly to the clerk of the peace or town clerk respectively; and if imposed in relation to the list of freemen and liverymen in the City of London, then to the secondaries (*d*). In case the fine is not paid, any justice of the peace, upon proof before him that a true copy of the order has been served upon or left at the usual place of abode of the person directed to pay it, and that the fine has been demanded of such person, and that he has refused or neglected to pay the same, must by warrant under his hand and seal order the money with the costs of and attending the warrant to be levied by distress and sale of the goods and chattels of the person making default, which may be found within the jurisdiction of the justice. There is no appeal against the decision of the revising barrister, nor may his order, nor the warrant of the justice, be removed by *certiorari* in to the High Court (*e*).

**(8) Preservation of order.**—The revising barrister may order any person to be removed from his court who interrupts the business of the court, or refuses to obey his lawful orders in respect of the same; and it is the duty of the chief constable, commissioner, or chief officer of the police of the place in which the court is held, to take care that an officer of police attends the court during its sitting for the purpose of keeping order therein, and to carry into effect any order of the revising barrister as aforesaid (*f*). The first part of this section is in affirmance of the common law as to the powers of the returning officer to preserve order when presiding over an election, and these common law powers are expressly conferred on revising barristers by section 41 of the Parliamentary Registration Act, 1843 (*g*). The second part provides a means for giving effect to these powers. At common law a returning officer presiding at an election might

(*c*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 36.

(*d*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 52; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 36.

(*e*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 71; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 36.

(*f*) County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 16.

(*g*) 6 & 7 Vict. c. 18.

cause any person, even a voter, making a noise and disturbance, and obstructing him in the execution of his duty, to be taken before a magistrate to give security for his good behaviour (*h*). It seems that a revising barrister may do the same, but he must not turn people out of court who are not disturbing the business of the court, on the ground that on some previous occasion they may have done something which deserved censure, as, for instance, standing by at a former revision and having documents in their possession or power touching matters in question which they did not then produce, and which would have established the validity of a vote then struck off for want of such evidence (*i*).

### 3. ORDER OF BUSINESS.

Although the Rule Committee of the judges appointed under section 19 of the Supreme Court of Judicature Act, 1881 (*j*), have power under section 39 of the Parliamentary and Municipal Registration Act, 1878 (*k*), to make rules for regulating the practice and procedure in the courts of the revising barristers, no such rules have as yet been made. Accordingly, each revising barrister makes his own arrangements for the conduct of the business of his court, which he is at perfect liberty to do, so long as his practice is not in any way inconsistent with the express provisions of the Registration of Electors Acts (*l*). In counties, the revising barrister is expressly required, if practicable, to complete the revision of the lists of voters for the parishes in one polling district before proceeding to revise the list of voters for any parish in any other polling district (*m*).

It is a convenient practice to commence with the production of the necessary lists and documents to be dealt with.

In the first place the clerk of the peace or town clerk may be called upon to produce those documents which it is their duty to produce at such court, as enumerated above, in considering the duties of the clerk of the peace and town clerk respectively. The clerk of the peace and town clerk having been sworn, and having produced the required documents, the overseers of the several parishes and townships are called upon in like manner to produce the documents which it is their duty to produce, and are sworn and produce the documents accordingly. Any overseer of any

(*h*) *Spilsbury v. Micklethwaite* (1808), 1 Taunt. 146.

(*i*) *Willis v. MacLachlan* (1876), L. R. 1 Ex. D. 376.

(*j*) 44 & 45 Vict. c. 68.

(*k*) 41 & 42 Vict. c. 26.

(*l*) See *Reg v. Soden, Ex parte Kelly*, [1896] 1 Q. B. 499, 634 : *Reg v. Soden and Overend*, [1897] 1 Q. B. 188.

(*m*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (6).

parish or township who wilfully neglects or refuses to attend the court for revising the lists of voters for his parish or township, or to attend the revising barrister when required by summons under his hand to do so, or who wilfully refuses or neglects to deliver to the barrister the several lists to be made out by them, is for every such offence liable to a fine of not less than twenty shillings, nor exceeding five pounds, to be imposed by and at the discretion of the revising barrister holding the court for the revision of any lists of the parish or township of such overseer. This does not affect any right of penal action against the overseers (*n*). These fines are to be imposed, paid, and recoverable in the manner already mentioned in regard to the imposition, payment, and recovery of fines ordered to be paid by witnesses summoned to attend by the revising barrister and not attending accordingly (*o*).

Upon production of the several lists the revising barrister may then proceed to revise them in any convenient order. It will generally be found convenient to separate the contentious from the non-contentious business. This course was approved of in the cases of *Reg. v. Soden*, *Ex parte Kelly*, and *Reg. v. Soden and Overend*, above referred to. Subject to this, the lists of claimants may be taken after the objections to persons already on the lists of voters, because claims must be proved by evidence, whether objected to or not.

If the lists of occupation voters delivered by the overseers to the revising barrister are not signed by the overseers, as directed by section 13 of the Parliamentary Registration Act, 1843 (*p*), the revising barrister should nevertheless proceed to the revision of such lists, for that section is directory only; and although the overseers may have neglected their duty and be liable to punishment, the lists are not to be therefore treated as a nullity. The reason for requiring signature to the lists to be delivered to the revising barrister is probably only to identify them as the lists originally made out by the overseers (*q*).

#### 4. POWERS AND DUTIES OF REVISING BARRISTERS.

The matters relating to the actual process of revision with which it is the duty of the revising barrister, and with which he is empowered by the statutes to deal, include the following

(*n*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 51; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 29.

(*o*) *Ante*, pp. 319--321.

(*p*) 6 & 7 Vict. c. 18.

(*q*) *Morgan v. Parry* (1855), 17 C. B. 334.

(which may be discussed at length in the same order), that is to say, mistakes, qualifications insufficient in law, deaths, omissions, descriptions insufficient for identification, legal incapacity, notices before expunging, alteration of polling places for county voters, double entries, claims and objections, transfers into other divisions of lists, initialling, reading over, and signature of lists. It should be observed, however, that the revising barrister is by sub-section (9) of section 28 of the Parliamentary and Municipal Registration Act, 1878, as extended by section 1 of the Registration Act, 1885, under a general obligation to retain upon the lists the names of all persons whether objected to or not, subject to the special provisions relating to dealing with them otherwise.

**(1) Mistakes.**—The revising barrister shall correct any mistake which is proved to him to have been made in any list, and he may correct any mistake which is proved to him to have been made in any claim or notice of objection (*r*).

For the present it may be convenient to consider only the correction of mistakes in any list, leaving the amendment of notices of claims and objections to be discussed under the general head of claims and objections.

The general duty of the revising barrister to correct any mistake which is proved to him to have been made in any list is subject to the special provisions of sub-sections (12) and (13) of section 28 of the Parliamentary and Municipal Registration Act, 1878 (*s*) (extended to counties by the Registration Act, 1885) (*t*), so far as the description of the qualification of a voter as stated in the list is concerned. By sub-section (12), "Where the matter stated in a list or claim or proved to the revising barrister in relation to any alleged right to be on any list is in the judgment of the revising barrister insufficient in law to constitute a qualification of the nature or description stated or claimed, but sufficient in law to constitute a qualification of some other nature or description, the revising barrister, if the name is entered in a list for which such true qualification in law is appropriate, shall correct such entry by inserting such qualification accordingly, and in any other case shall insert the name with the qualification in the appropriate list, and shall expunge it from the other list, if any, in which it is entered" (*u*). And by sub-section (13), "except as herein provided, and whether any person

(*r*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (1), (2). Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(*s*) 41 & 42 Vict. c. 26.

(*t*) 48 & 49 Vict. c. 15.

(*u*) 41 & 42 Vict. c. 28 (12).



is objected to or not, no evidence shall be given of any other qualification than that which is described in the list, nor shall the revising barrister be at liberty to change the description of the qualification as it appears in the list except for the purpose of more clearly and accurately defining the same" (x). These two sub-sections must be read together, and sub-section (13) is a proviso by way of exception on sub-section (12). Therefore the effect of reading the two sub-sections together is that although the revising barrister may by virtue of sub-section (12) have the power to amend an inaccurate or insufficient description of the qualification as described in the third column of the list, yet if the description in that column does sufficiently and accurately describe a qualification known to the law, then by virtue of the proviso the revising barrister has no power to alter that sufficient description into a sufficient description of another qualification. In other words, a revising barrister can only amend an insufficient description of the qualification but cannot alter the description into a description of another qualification (y). Considerable difficulty has however been felt with regard to the words with which sub-section (13) itself commences, viz., "except as herein provided." These words "except as herein provided," have been construed, in the case of *Foskett v. Kaufman*, decided in 1885, to refer to section 24 of the same Act (z), whereby a borough voter or an occupation voter in a county may make a declaration as to the misdescription of (amongst other things) the nature of his qualification as stated in the list (a). But inasmuch as whilst section 28 of the Parliamentary and Municipal Registration Act, 1878, is incorporated by sub-section (2) of section 1 of the Registration Act, 1885, with regard to the registration of ownership voters in counties, section 24 of the Act of 1878 is not incorporated, a different meaning must be put upon those words "except as herein provided" in relation to the revision of the lists of ownership voters. And in this connection, it has been held to refer to the power of a person on such list to send in a notice of claim correctly describing his qualification (b). The result is that in going through the lists of voters for the purpose of correcting mistakes, the revising barrister must correct any mistake which is proved to him to have been made, but cannot correct any

(x) 41 & 42 Vict. c. 26, s. 28 (13).

(y) Per Lord ESHER, M.R., in *Plant v. Potts*, [1891] 1 Q. B. at pp. 261, 262.

(z) 41 & 42 Vict. c. 26. (a) *Foskett v. Kaufman* (1885), 16 Q. B. D. 279.

(b) *Plant v. Potts*, [1891] 1 Q. B. 256.

mistake in the description of the qualification if it would amount to inserting a description of another and a different qualification, unless, in the case of a borough voter or of an occupation voter in a county, such voter has made a declaration as to misdescription; or unless, in the case of an ownership voter, such voter has sent in a claim correcting the misdescription.

The following are instances of mistakes in matters other than the description of the qualification. In the case of *Elliott v. The Overseers of St. Mary Within, Carlisle*, where a parish consisted of four divisions, popularly but improperly called townships, and the overseers appointed for the whole parish, by arrangement amongst themselves, acted separately, one for each division, and made out separate lists, headed in the name of each so-called township, the revising barrister properly amended the lists by expunging the heading from each of the four portions, and by directing that such four portions should be printed together in one alphabetical list, headed in the name of the whole parish (c). And again, in *Mather v. The Overseers of Allendale*, decided in 1870, where the list of 12*l.* occupiers in a county was headed and made out and printed in consecutive sheets, a mistake of the printers in putting on two of the sheets a heading properly applicable to ownership voters was held to be a mistake amendable, and which ought to have been amended by the revising barrister (d). And in *Ballard v. Robins*, in 1877, where the names of several 12*l.* occupiers were inserted in the list of voters for a county amongst voters in respect of property including 50*l.* occupiers, and were omitted from the list of 12*l.* occupiers, but their qualifications were correctly stated and all other particulars given, it was held that this was a mistake in a list which the revising barrister could and ought to have corrected by expunging the names from the portion of the list in which they were inserted, and by inserting them in their alphabetical order amongst the 12*l.* occupiers (e). The place of abode of the voter is no part of the description of his qualification, and the revising barrister must correct any mistake which is proved to him to have been made in stating the place of abode in the list. For instance, in *Luckett v. Knowles*, decided in 1846, the place of abode was stated to be "Greenwich," but it was proved that the voter's true place of abode was at Queen's Square, Bloomsbury. It was held that the

(c) *Elliott v. The Overseers of St. Mary Within, Carlisle* (1847), 4 C. B. 76.

(d) *Mather v. The Overseers of Allendale* (1870), L. R. 6 C. P. 272.

(e) *Ballard v. Robins* (1877), 3 C. P. D. 92.

revising barrister had power to amend, and was right in amending the list accordingly (*f*). So also in an Irish case of *Nagle v. Campbell*, decided in 1895, it was held that if the revising barrister found that the place of abode of a freeman is wrongly stated in the list, he is bound, on proof of the true place of abode and that the same is within the qualifying radius, to correct the place of abode as described in the list, and in the case of a divided borough to assign the freeman, under section 14 of the Redistribution of Seats Act, 1885 (*g*), to the right division for purposes of voting (*h*).

With regard to mistakes in the description of the qualification, it has been already stated that by sub-section (12) of section 28 of the Parliamentary and Municipal Registration Act, 1878, extended to counties by section 1 of the Registration Act, 1885, it is enacted that where the matter stated in a list or claim, or proved to the revising barrister in relation to any alleged right to be on any list, is in the judgment of the revising barrister insufficient in law to constitute a qualification of the nature or description stated, but sufficient in law to constitute a qualification of some other nature or description, the revising barrister must, if the name is entered in a list for which such true qualification in law is appropriate, correct such entry by inserting such qualification accordingly, and in any other case shall insert the name with such qualification in the appropriate list, and shall expunge it from the other list (if any) in which it is entered (*i*). For instance, in the case of *Friend v. Towers*, decided in 1882, the name of the voter was on the occupiers' list, and the nature of the qualification was stated to be a "house." On objection it was proved that the clear yearly value of the property was less than ten pounds, but the voter proved that he had occupied the house as tenant as his dwelling-house during the whole of the qualifying period so as to constitute a qualification under section 3 of the Representation of the People Act, 1867 (*k*), and the revising barrister amended the entry by adding "dwelling" to the word "house." The court held that the revising barrister had power to make this amendment, and was bound to do so under the above sub-section (*l*).

Moreover, as already stated, under the combined effect of sub-sections (12) and (13) of section 28 of the Parliamentary

(*f*) *Lockett v. Knowles* (1846), 2 C. B. 187.

(*g*) 48 & 49 Vict. c. 23.

(*h*) *Nagle v. Campbell*, [1896] 2 I. R. 326.

(*i*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (12); Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(*k*) 30 & 31 Vict. c. 102.

(*l*) *Friend v. Towers* (1882), 10 Q. B. D. 87.

and Municipal Registration Act, 1878, as extended to counties by section 1 of the Registration Act, 1885, the revising barrister can correct any mistake in the description of the qualification for the purpose of more clearly and accurately defining the same, so long as such correction does not amount to a description of another and a different qualification, unless in the case of a borough voter, or of an occupation voter in a county, the voter has made a declaration as to the misdescription of the nature of his qualification, and has delivered it to the town clerk or clerk of the peace, as the case may be, in due time, that is to say, on or before September 5th, or unless in the case of an ownership voter, he has sent in to the overseers on or before July 20th a claim correcting the misdescription of his qualification. It is to be observed, moreover, that if a borough voter or occupation voter in a county has made such a declaration, and has delivered it to the town clerk or clerk of the peace, as the case may be, in due time, of which the indorsement upon it by the town clerk or clerk of the peace is *prima facie* proof, the revising barrister is bound to receive it as evidence of the facts declared to, and that without proof of the signature of the declarant, or of the justice, commissioner, or person before whom the declaration purports to have been made, unless he has good reason to doubt the genuineness of any signature thereto (*m*). But the revising barrister has no power to accept such a declaration as to misdescription as evidence of the facts declared to if it was not delivered to the town clerk or clerk of the peace, as the case may be, in due time. In *Daking v. Fraser*, decided in 1885, the declaration purported to have been made before a justice of the peace on September 7th, 1885, and the indorsement thereon by the town clerk was that it was received by him at noon that day. By the Redistribution of Seats Act, 1885, the date for delivery of such declarations in the year 1885 was to be September 5th (*n*). It was contended before the revising barrister that this declaration not having been sent in due time, could not be received; but as it had been sent to the town clerk in time for the court, the revising barrister decided to accept it. But the court held that he had no power to receive it unless under the

(*m*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 24. Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (1) and (3).

(*n*) This is the regular date now fixed for sending in such declarations to the town clerk or clerk of the peace by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6.



Act, which only empowers him to do so when it has been sent in to the town clerk in due time (*o*). It should be observed, moreover, that even where the declaration has been sent in to the town clerk or clerk of the peace in due time, the statute only makes it evidence of the facts declared to, but not conclusive proof, and therefore if the voter has been objected to, the revising barrister may admit evidence in support of the objection to contradict the declaration, and may, if he thinks the objection is made out, expunge the name of the voter accordingly (*p*).

The following cases are illustrations of corrections in the description of the qualification which must or may not be made. In *Foskett v. Kaufman*, decided in 1885, the nature of the qualification in a borough was stated as a "dwelling-house," and the name and situation of the property to be "5, Victoria Cottages," and no declaration as to misdescription had been made by the voter. It was held that the misdescription could not be corrected by altering "dwelling-house" to "dwelling-houses in succession," and "5, Victoria Cottages" to "High Street, Wapping, and 5, Victoria Cottages," because that would amount to a description of another and a different qualification (*q*). Although Lord ESHER, M.R., in his judgment in this case is reported to have said (*r*) that it seemed not necessary on that occasion to give any opinion on the other cases which were cited in that case, and the other members of the court did not notice them either, yet it seems that *Foskett v. Kaufman* must be taken to show that the case of *Lynch v. Wheatley*, decided in December, 1884, was wrongly decided, and that *Ford v. Hoar*, decided on the same day, though it may have been rightly decided, contains in the judgments erroneous statements of the law. These cases were as follows: In *Ford v. Hoar* the nature of the qualification of a voter on the occupiers' list for the city of Exeter was stated to be "dwelling-houses in succession," and the name and situation of the qualifying property to be "44, Oxford Street, and 34, Prospect Place, Cowick Street." The voter had made no declaration as to

(*o*) *Daking v. Fraser* (1885), 16 Q. B. D. 252.

(*p*) *Tranior v. Starbuck* (1893), 1 Fox & Smith, 340.

(*q*) *Foskett v. Kaufman* (1885), 16 Q. B. D. 279. See *Bartlett v. Gibbs*, *post*, which is discussed amongst the decisions under the now repealed Parliamentary Registration Act, 1843 (6 & 7 Viet. c. 18), s. 40. *Foskett v. Kaufman* has been followed and approved in Ireland in *Dempsey v. Keegan* (1885), 18 L. R. Ir. 280; and *Alexander v. Burke* (*Doyle's case*) (1888), 22 L. R. Ir. 595, and in England in *Harcum v. Hilleary*, *post*, p. 353.

(*r*) 16 Q. B. D. 289.

misdescription. It was held by STEPHEN and CAVE, JJ. (Lord COLERIDGE, C.J., *diss.*), that the revising barrister had power to correct, and should have corrected, the name and situation of the qualifying property by adding 31, Prospect Place, Cowick Street; the fact being that the voter had occupied during the qualifying period not only 44, Oxford Street, and 31, Prospect Place, Cowick Street, as stated, which last-mentioned house was his present house, but also 31, Prospect Place, Cowick Street (*s*). In this case, having regard to the law as laid down in *Foskett v. Kaufman*, in the Court of Appeal, it might be said that the corrected entry would still describe the qualification as a qualification consisting, as before correction, in the occupation of houses in succession; and the correction might be said merely more accurately and clearly to define the same (*t*). But in the case of *Lynch v. Wheatley* it appeared that the nature of the qualification of a voter for the borough of Cardiff, who had not made any declaration as to misdescription, was stated to be "Offices, successive occupation," and the name and situation of the qualifying property as "High Street and Charles Street." The fact was that the voter had occupied the office in High Street only during the whole of the qualifying period. The court held that the revising barrister had power to correct, and ought to have corrected, this description by striking out the words "successive occupation" and "and Charles Street" (*u*). It would seem that this case must have been decided the other way if it had occurred after, and not before, the decision in *Foskett v. Kaufman* (*x*).

The case of *Foskett v. Kaufman* expressly overrules the decision in *Porrett v. Lord* in 1879, viz., that where a borough voter made a declaration as to misdescription, correcting the nature of the qualification as stated in the list from "house" to "houses in succession," and the name and situation of the qualifying property as stated from "8, Birley Place," to "8, Birley Place, and 9, Birley Place," the revising barrister had nevertheless no power to amend the list accordingly (*y*). In such a case in future the amendment must be made.

The cases of *Dashwood v. Ayles* and *Minifie v. Banger* are illustrations of corrections made for the purpose of more clearly

(*s*) *Ford v. Hoar* (1884), 14 Q. B. D. 507.

(*t*) See also a discussion of *Ford v. Hoar* in the Irish case of *McLaugh v. Chambers* (1886), 20 L. R. Ir. 286.

(*u*) *Lynch v. Wheatley* (1884), 14 Q. B. D. 504.

(*x*) See now *Hurcum v. Hilleary*, *post.* p. 353.

(*y*) *Porrett v. Lord* (1879), 5 C. P. D. 65.

and accurately defining the description of the qualification without amounting to the substitution of another and a different qualification. In the case of *Dashwood v. Ayles*, decided in 1885, the nature of the qualification in a county was stated to be a "tenement and garden," and the description of the qualifying property to be "part bailiff's tenement." It was held that "tenement and garden" ought to be corrected by being struck out, and by substituting "dwelling-house," on the ground that this correction would not amount to a description of another and a different qualification, because the word "tenement" was vulgarly used to signify a dwelling-house (z). So also in *Minifie v. Banger*, where the nature of the qualification was similarly stated, and the description of the qualifying property was stated to be "school-yard" (a). But these two cases do not show that in every case where the nature of the qualification is stated to be a "tenement" it may be corrected to "dwelling house" (b).

In *Townshend v. The Overseers of St. Marylebone*, decided in 1871, the qualification, as described in the list, was "dwelling-house," and it appeared that the premises were in fact a shop, with dwelling-rooms above, jointly occupied by the voter with another person, and the clear yearly value of the premises was more than ten pounds for each occupier. The occupation being joint, it was clear that the voter could not be registered under section 3 of the Representation of the People Act, 1867. But the revising barrister amended the description by substituting "house" for "dwelling-house," and retained the name of the voter as entitled to be registered in respect of a qualification under section 27 of the Reform Act, 1832. The court (c) held that the amendment was unnecessary, because dwelling-house was a sufficient description of a qualification under section 27 of the Reform Act, 1832, and that the name of the voter was rightly retained (d).

In *Plant v. Potts*, decided in 1890, the nature of the qualification of an ownership voter in a county was described in the third column of the list of ownership claimants as "freehold house." The revising barrister, on proof that the claimant possessed a leasehold but not a freehold qualification in respect of the house in question, substituted "leasehold" for "freehold" in the third

(z) *Dashwood v. Ayles* (1885), 16 Q. B. D. 295.

(a) *Minifie v. Banger* (1885), 16 Q. B. D. 302.

(b) Per Lord ESHER, M.R., 16 Q. B. D. 304.

(c) WILLES, KEATING, and COLLIER, JJ.; BRETT, J., *diss.*

(d) *Townshend v. The Overseers of St. Marylebone* (1871), L. R. 7 C. P. 143.

column. And it was held unanimously by the Court of Appeal, affirming the decision of the Queen's Bench Division (VAUGHAN WILLIAMS and LAWRENCE, JJ., GRANTHAM, J. *diss.*), that the revising barrister had no power to make the alteration (*e*). This, as it will be seen, was a case decided upon the meaning of section 28 of the Parliamentary and Municipal Registration Act, 1878 (*f*) as applied to the registration of ownership voters by sub-section (2) of section 1 of the Registration Act, 1885 (*g*), which does not incorporate section 24 of the Parliamentary and Municipal Registration Act, 1878. The Court of Appeal therefore held that the words "except as herein provided" at the commencement of sub-section (13) of section 28 of the Parliamentary and Municipal Registration Act, 1878, as so incorporated might have reference to the making of a fresh claim by an ownership voter who had discovered the mistake in his original claim.

The construction put upon section 28 of the Parliamentary and Municipal Registration Act, 1878 (*f*), in the case of *Foskett v. Kaufman*, makes the powers and duties of the revising barrister under that section as to correcting mistakes in the description of the qualification closely similar to what they were under section 40 of the Parliamentary Registration Act, 1843. The following cases, therefore, decided under the earlier Act, may be found useful in illustrating the later.

In *Bartlett v. Gibbs*, decided in 1843, the qualification described in the list was a house in East Street, in the borough of Lewes. At the time in question there was no enactment in force relating to declarations as to misdescription. As a matter of fact the voter had not during the whole of the qualifying period occupied the house in East Street as described in the list, but had removed into that house immediately and without any interval of time from another house situate in West Street, occupied by him for the first six months of the qualifying period. The Court held that the revising barrister could not amend the qualification as described in the list because the facts proved another and a

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(*e*) *Plant v. Potts*, [1891] 1 Q. B. 256. The Irish Court of Appeal considered this case in the case of *Torish v. Kilgore* (1891), 30 L. R. Ir. 441, and refused to follow it, preferring the authority of the previous Irish decision in *Gillespie's case*, Lawson's Notes of Cases, 17, approved in *Wilson v. Buchanan* (1886), 20 L. R. Ir. 213; *Charleton v. Prunty* (1890), Lawson's Notes of Cases. There is, however, a slight difference between the Irish Statute, 48 Vict. c. 17, and the Registration Act, 1885 (48 & 49 Vict. c. 15), which made it impossible for the Irish Court of Appeal to construe the words "except as herein provided" as construed by the English Court of Appeal.

(*f*) 41 & 42 Vict. c. 26.

(*g*) 48 & 49 Vict. c. 15.



different kind of qualification (*h*). It would seem from the case of *Daniel v. Camplin*, decided in 1845, that if the nature of the qualification of a joint occupier as described in the list does not show that the occupation is joint the revising barrister may, and at the present day ought to, correct it. In that case the nature of the qualification as described in the list was "house and shop," "High Street," and it appeared that the occupation was in fact joint, and all the other requisites had been complied with; but it was objected that the fact of the occupation being joint ought to have appeared by the list. There was nothing in the form of list then prescribed by section 13 of the Parliamentary Registration Act, 1843 (*i*), or in the section itself, requiring the fact of joint occupation to appear by the list, and the Court therefore held that the revising barrister was right in retaining the name on the list without any amendment of the nature of the qualification (*k*).

At the present time the form of list prescribed by the Registration Order, 1895 (*l*), shows whether the occupation in such case is joint or several, and it would seem therefore that the revising barrister should make the amendment if necessary. It also seems that it could not be successfully contended that such an amendment amounts to a substitution of another and a different qualification, for if that were so then *Daniel v. Camplin* must, even at the time it was decided, have been decided the other way, upon the authority of *Bartlett v. Gibbs*, as above cited.

In *Onions v. Bowdler*, decided in 1847, the qualification described in the list was "house in succession," "Butcher Row," in the borough of Shrewsbury. At the time in question there was no enactment in force relating to declarations as to misdescription, and the voter had made no claim to be registered in respect of a different qualification to that appearing in the list. As a matter of fact the voter had during the qualifying period occupied two houses in immediate succession; one in Coleham, and afterwards one in Butcher Row, which places were in different parishes though within the same borough. The Court held that the revising barrister had no power to alter the description of the qualification as stated in the list to "houses in succession," "Coleham and Butcher Row" (*m*). In *Nicholls v. Bulwer*,

(*h*) *Bartlett v. Gibbs* (1843), 5 M. & G. 81.

(*i*) 6 Vict. c. 18.

(*k*) *Daniel v. Camplin* (1845), 7 M. & G. 167.

(*l*) Schedule 3, Form (D.), No. 1. So also the form previously prescribed by the Registration Order, 1889, schedule 3, and by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 18, schedule 3.

(*m*) *Onions v. Bowdler* (1847), 5 C. B. 65.

decided in 1870, the nature of the qualification of a claimant for the county franchise as described in the list, which was in accordance with the claim, was "freehold rent-charge of 16*l.* per annum accruing out of freehold houses 1, 2, 3, and 4, Stanley Cottages, Tower Hamlets Road." The claimant produced and proved a deed of grant to himself in fee simple of a plot of land with four houses thereon, and stated that he had since the conveyance let the land on lease for a long term of years at a yearly rent of 16*l.* The four houses were known by the name given in the list. It was held that the claimant had proved a different kind of qualification to that stated in the list, and that the revising barrister had no power to amend the list accordingly (*n*). In the following year, in the case of *Bendle v. Watson*, the qualification of a county voter as described in the register was "freehold house and shop," "4, English Street, Carlisle." It was proved before the revising barrister that the premises in question were then, and had been for six years previously, numbered 9, English Street. At one time they had been numbered 4, English Street, but the numbers had been changed by competent local authority. The Court held that the revising barrister had power to amend and ought to have amended accordingly (*o*). On the day after the decision in *Bendle v. Watson*, it was decided in *Ford v. Boon*, where the nature of the qualification of a claimant to be registered as a voter for the city and county of Exeter, as stated in the list, was "house," and in Exeter there are reserved rights for freeholders as well as rights to vote as occupiers, and it appeared that the claimant proved himself to be entitled to be registered in respect of occupation, the Court held that the revising barrister had power to amend the nature of his qualification as stated in the list by inserting the words "occupier of" before the word "house" (*p*). In *Sherwin v. Whyman*, decided in 1873, the description of the qualification of a county voter as stated in the register was "rent-charge on a freehold house, Parker Street, W. B. Sherwin, owner." The court held that the revising barrister had power to amend and ought to have amended by inserting the word "freehold" before "rent-charge, etc." for only a freehold rent-charge could be a qualification, and if the qualification was sufficiently stated for purposes of identification when it came to be proved it must be a

(*n*) *Nicholls v. Bolwer* (1870), L. R. 6 C. P. 281.

(*o*) *Bendle v. Watson* (1871), L. R. 7 C. P. 163.

(*p*) *Ford v. Boon* (1871), L. R. 7 C. P. 150.

freehold or no qualification at all, therefore the addition of the word freehold could not make it another and a different qualification (*q*). In *Smith v. Woolston*, 1878, the description of the qualification of a county voter as stated in the list was "freehold land plots 166, 167, 168, 169, 171, 172, 173, 174, 176, 177, 178, 179, 175, 475, 476, Victoria Estate." The voter had sold all these except plot 476, which was freehold and of sufficient value. It was held that the revising barrister had power to amend and ought to have amended by striking out the numbers except 476 (*r*).

**(3) Qualification insufficient in law.**—The revising barrister must expunge the name of every person, whether objected to or not, whose qualification as stated in any list is insufficient in law to entitle such person to be included therein (*s*). This does not mean that it is necessary that the qualification should be stated in the most accurate legal terms applicable thereto, but only that it should be stated in such a way that the legal nature of the qualification should be apparent from the statement to an ordinary understanding, and not to be confused with any other qualification as to its legal nature.

So in the case of *Howitt v. Stephens*, decided in 1858, where the qualification of a county voter, at a time when there was only one kind of occupation franchise in counties, was stated in the list to be "50*l.* occupier, Cambridge Road," it was held sufficient in law as pointing to a qualification under the Chandos clause of the Reform Act, 1832 (*t*), viz., that the voter occupied as tenant lands or tenements for which he was *bonâ fide* liable to a yearly rent of not less than fifty pounds (*u*). Or again, in *Birks v. Allison* decided in 1862, where the qualification of a county voter, at a time when there was only one kind of occupation franchise as tenant in counties, was stated in the list to be "Tenant, Newstead Grange," it was held that it was sufficient in law as pointing to a tenant occupying lands for which he was *bonâ fide* liable to a yearly rent of not less than fifty pounds (*x*).

Another instance is the case of *Jones v. Jones*, in 1868, where the qualification of a county voter, as stated in the list, was

(*q*) *Sherwin v. Whyman* (1873), L. R. 9 C. P. 243.

(*r*) *Smith v. Woolston* (1878), 4 C. P. D. 73.

(*s*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (3). Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(*t*) 2 & 3 Will. c. 45, s. 20.

(*u*) *Howitt v. Stephens* (1858), 5 C. B. (N.S.) 30.

(*x*) *Birks v. Allison* (1862), 13 C. B. (N.S.) 12. See also *Birks v. Allison*; *Dixon's case*, 13 C. B. (N.S.) 24.

“Leasehold house and garden, Caerffynon, self tenant.” The voter held under a conveyance for his life, but in the event of his death within sixty years, then for and during the remainder of a term of sixty years. The court held that the qualification as stated was sufficient in law, although the interest of the voter was strictly freehold (*y*).

(3) **Deaths.**—The revising barrister must expunge the name of every person who, whether objected to or not, is proved to the revising barrister to be dead (*z*).

Where an entry in any list, and an entry in a return of deaths made to the overseers, appear to relate to the same person, the revising barrister must inquire whether such entries relate to the same person, and on proof being made to him that the entries relate to the same person, must expunge the entry in the list therefrom (*a*).

(4) **Omissions and (5) descriptions insufficient for purposes of identification.**—The revising barrister must expunge the name of every person, whether objected to or not, whose name or place of abode, or the nature of whose qualification, or the name or situation of whose qualifying property, if the qualification is in respect of property, or any other particulars respecting whom by law required to be stated in the list, is or are either wholly omitted, or, in the judgment of the revising barrister, insufficiently described for the purpose of being identified, unless the matter or matters so omitted or insufficiently described be supplied to the satisfaction of the revising barrister before he shall have completed the revision of the list in which the omission or insufficient description occurs; and in case such matter or matters shall be so supplied, he must then and there insert the same in such list (*b*).

Whether the particulars of description are or are not sufficient for the identification of the party or the qualification is a question of fact to be decided by the revising barrister without appeal, and the High Court will not interfere with his decision on such a question. For instance, in *Wood v. The Overseers of Willesden*, decided in 1845, the name, place of abode and qualification of a county voter were described in the register for the parish of

(*y*) *Jones v. Jones* (1868), L. R. 4 C. P. 422.

(*z*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (4). Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(*a*) *Ibid.* s. 28 (5). *Ibid.*

(*b*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (6). Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.



Willesden as "Hall, Henry | The Grove, Neasdon, in this parish | House and land as occupier | Neasdon," which the revising barrister held to be sufficient for the purpose of identifying the voter's place of abode and the qualifying property. The court refused to reverse his decision (c). Or again, in *Walker v. Payne*, decided in the same year, where the place of abode of the voter was stated in the list as "Travelling abroad," and it was proved that the voter was, and for several years had been, travelling abroad, and had no fixed place of abode, it was held that nothing was omitted which could have been inserted, and that the revising barrister was right in retaining the name on the list (d). In the case of *Eckersley v. Barker*, decided in 1845, it was held with regard to the description of the qualification of ownership claimants and voters in claims and lists that, if the qualifying property be a house, and such house be situate in a street, lane or other like place in a parish, the street or lane ought to be mentioned, and that if the houses are numbered, the number also should be given; but it is not necessary also to insert the name of the occupying tenant, notwithstanding the fact that section 5 of the Parliamentary Registration Act, 1843, requires the overseers to make out a list of the claimants, containing the nature of their qualification and the local or other description of the property, "*and the name of the occupying tenant thereof.*" But if the house be not in a street or lane, or other like place, but is in a road or on a common, or the like, then the name of the property must be given, if known by any, or the name of the occupying tenant. For instance, in the case cited, the description of Barker's qualification was stated as an "Undivided moiety of two freehold cottages, Tinker Lane, Hollinwood," and the objection was that the names of the occupying tenants were omitted. But the court held that the description was sufficient, it being found as a fact by the revising barrister that neither of the cottages was numbered or known by any particular name, and that any person inquiring in Tinker Lane or the neighbourhood would readily have been able to find them (e).

**(6) Legal incapacity.**—The revising barrister must expunge the name of every person, whether objected to or not, where it is proved to the revising barrister that such person was, on the last

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(c) *Wood v. The Overseers of Willesden* (1845), 2 C. B. 15.

(d) *Walker v. Payne* (1845), 2 C. B. 12.

(e) *Eckersley v. Barker* (1845), 7 M. & G. 76.

day of July (*f*) then next preceding, incapacitated by any law or statute from voting at an election of a knight of the shire to serve in Parliament for the county, or at an election for the parliamentary borough, or for the municipal borough, or administrative county, as the case may be, to which the list relates (*g*).

“Persons incapacitated by any law or statute from voting at an election” does not mean persons who, from failure in the incidents or elements of the franchise, could be successfully objected to on revision; it means persons who, from some inherent, or for the time irremovable, quality in themselves have not, either by prohibition of statutes or at common law, the status of parliamentary electors or local government electors as the case may be. Such, for example, as to parliamentary elections are peers, women, persons holding certain offices or employments the subject of statutory prohibitions, and persons convicted of crimes which disqualify them from voting. The phrase refers to a general incapacity to vote at all, and not to a mere temporary disqualification which relates to the condition of the party with reference to the particular election only. In the absence of objection, therefore, the revising barrister is not bound, under this section, to strike off the names of persons in fact disqualified by the receipt of parochial relief, but is under the general obligation to retain the names of such persons on the register (*h*). But the revising barrister is bound to expunge from any list of parliamentary voters the name of a peer of Parliament, although no objection be made to it (*i*), or of an Irish peer not having a seat in Parliament (*k*); and so he would have been bound to expunge the name of a constable in the metropolitan police force, whether objected to or not, previous to the removal, by the Police Disabilities Removal Act, 1887 (*l*), of the disqualification of such constable under the 10 Geo. 4, c. 44 (*m*).

**(7) Notice before expunging.**—Before expunging from a list the name of any person not objected to, the revising barrister

(*f*) By s. 7 of the same Act the period of qualification was to be computed by reference to the 15th, and not to the last day of July, but the definition there given of the term “period of qualification” does not include period of legal incapacity.

(*g*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (7). Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(*h*) *Hayward v. Scott* (1879), 5 C. P. D. 231. See also *Stowe v. Jolliffe* (1874), L. R. 9 C. P. 734.

(*i*) *Earl Beauchamp v. The Overseers of Madresfield* (1872), L. R. 8 C. P. 245.

(*k*) *Lord Rendlesham v. Haward* (1873), L. R. 9 C. P. 252.

(*l*) 50 & 51 Vict. c. 9.

(*m*) *Doulton v. Halse* (1886), 18 Q. B. D. 421.

shall cause such notice (if any) as shall appear to him necessary or proper under the circumstances of the proposal to expunge the name to be given or left at the usual or last known place of abode of such person (*n*).

The cases in which such notices have been given may be conveniently taken after claims and objections have been dealt with and before the lists are signed.

**(8) Alteration of polling places for county voters.**—In counties it may be found convenient to take at the same time with matters with which the revising barrister is empowered to deal, whether objection has been made in respect thereof or not, the claims of persons whose names appear on the lists of voters to vote at any polling-place other than the polling-place for the district in which their qualification is situate.

Any person whose name appears on the list of voters of any parish or township in and for any county, and whose place of abode is not within the same polling district or the same county as their qualification, may make claim before the revising barrister to be allowed, in the former case to vote at the polling-place of the district in which their place of abode is situate, and, in the latter case, to vote at any polling-place in the same county. Such claim must be in writing under the hand of the voter, and be delivered to and verified before the revising barrister holding his court for the revision of the list of voters in which the name of such person appears.

The revising barrister may then insert in the list against the name of such claimant the name of the polling-place at which he is to be registered to vote, and then he may vote there accordingly (*o*).

**(9) Double entries.**—Where the name of any person appears to be entered more than once as a parliamentary voter on the lists of voters for the same county or for the same parliamentary borough, or more than once as a burgess or county elector, as the case may be, in Division III. of the occupiers' list, the revising barrister must inquire whether such entries relate to the same person, and on proof being made to him that such entries relate to the same person, the revising barrister must retain one of the entries for voting (*p*), and place against the other or others a

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(*n*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (8). Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(*o*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18) s. 36.

(*p*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (14); Registration Act, 1885 (48 & 49 Vict. c. 15) s. 4 (9) (a); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7 (5).

mark signifying that his name should be printed in Division III. of the list, or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector (q).

The voter may select the entry to be retained, whether for the parliamentary or local government franchise, by a notice in writing to be delivered to the revising barrister at the opening of the first court at which he revises any of the lists in which any such entries appear (r). In counties the notice may be delivered before the opening of the court, or may be sent by post, or the selection may be made by application by such person or on his behalf at the revision of the first of such lists (s).

If no such selection is made, then—

In boroughs, the entry to be retained for parliamentary voting is determined under section 5 of the Registration Act, 1885 (t), as follows :

If one of the entries is on the list of freemen, that entry must be retained ; but if neither of the entries is on the list of freemen, and one of the entries is the place of abode of the voter, the entry in respect of the place of abode is to be retained. In any other case the entry in that one of the lists which is first revised by the revising barrister must be retained for parliamentary voting.

If any such entry to be retained is objected to, the revising barrister must not finally place the mark above described against any other entry until the objection to the entry to be retained has been determined in favour of the voter.

Where a parliamentary borough is divided into divisions, and notwithstanding the provisions of the Parliamentary and Municipal Registration Act, 1878 (u), and of the Registration Act, 1885 (v), the name of a person is entered in the register of

(q) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (6). Names so marked will not be printed in the parliamentary register of electors, but will be printed as the case requires, either in Division III. of the local government register of electors or in the separate list of parochial electors. The refusal of the revising barrister to put the mark against any name cannot be appealed against. *Arnold v. Sharpe* (1891), 1 Fox & Smith, 252. Persons registered as county electors in more than one electoral division of the same administrative county will not be entitled to vote in more than one such division at a general election of councillors for that county. *Knill v. Touse* (1889), 24 Q. B. D. 186.

(r) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (14) ; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (9) (b). Form of Notice of Selection, Registration Order, 1895, Sched. 2 and 3, Forms P. No appeal lies from the decision of the revising barrister upon the validity of the notice. *Reg. v. Revising Barrister of Liverpool and Chadwick*, [1895] 1 Q. B. 155.

(s) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (9) (b).

(t) 48 & 49 Vict. c. 15. (u) 41 & 42 Vict. c. 26. (v) 48 & 49 Vict. c. 15.



parliamentary voters in more than one division without such mark, and one of those entries is his place of abode, he is entitled to vote only in that division in which he is so registered as a voter in respect of his place of abode, and must not vote in respect of any other entry (*x*).

If any question on appeal, or otherwise, arise as to the validity of the qualification for which the parliamentary voter or burgess is on the list for voting, recourse may be had, for supporting the right of the voter or burgess to be on the parliamentary register or burgess roll for voting, to any other qualification of such person appearing on the register or burgess roll. Provided always, that in the case of a municipal borough divided into wards a vote given in, or the right to vote in, one ward shall not be supported by a qualification appearing on the burgess roll for some other ward (*y*).

In counties, if no selection is made by the voter, the entry to be retained for parliamentary voting is determined under subsection (9) of section 4 of the Registration Act, 1885 (*x*).

If only one of the entries is on the list of ownership voters, that entry must be retained; but if all or none of the entries are on the list of ownership voters, and one of the entries is of the place of abode of the voter, the entry in respect of the place of abode must be retained. In any other case the entry in that one of the lists which is first revised by the revising barrister must be retained.

And if any such entry to be retained is objected to, the revising barrister must not finally place the mark above described against any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.

**(10) Claims and objections.**—The subject of claims and objections is so important that it may be stated here that it will be dealt with in the following order:—

- (i.) General powers (p. 342).
- (ii.) Objections :
  - (a) general procedure (p. 342);
  - (b) correction of mistakes (p. 343);
  - (c) proof of notice of objection (p. 344);
  - (d) proof of grounds of objection (p. 348).

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(*x*) In large towns it frequently happens that a party has his house in one part, and that he is the joint or sole occupier of some place of business, as a counting-house, shop, or warehouse, etc., in another. This provision is intended to meet such cases.

(*y*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (14).

## (iii.) Claims :

- (a) general procedure (p. 349) ;
- (b) proof of notice of claim (p. 350) ;
- (c) correction of mistakes (p. 351) ;
- (d) proof of grounds of claim (p. 355).

## (iv.) Costs generally (p. 355).

(i.) GENERAL POWERS.—In dealing with claims and objections the revising barrister must finally determine upon the validity of such claims and objections upon the hearing in open court, and has for that purpose the same powers, and must proceed in the same manner (except where otherwise directed by the Registration Acts), as the returning officer of any county, city, or borough, according to the laws and usages observed at elections previous to the passing of the Reform Act, 1832 (z). The revising barrister may, in his notice of the times and places for holding his courts, fix beforehand the sittings at which he will take contested claims and objections, and after ascertaining at the end of such sittings that there are no claimants or persons objected to who desire to be heard, may declare the lists to be closed, and refuse afterwards to hear evidence in support of claims, whether objected to or not, or in opposition to objections (a).

(ii.) OBJECTIONS. — (a) *General procedure*. — In dealing with objections, where, on calling over the lists of voters, either the objector or some one on his behalf, or the person objected to or some one on his behalf, fails to appear, the revising barrister may go on to the next name. After the list has been once called over it may be gone through a second time. The third time, if the objector or some one on his behalf does not appear, the name of the person objected to must be retained on the list. But if the objector or some one on his behalf appears and the person objected to is still absent and not represented, then, if the objection was made by the overseers, the name of the person objected to must be expunged, but if the objector is not an overseer the objector is put to the proof of his objection as if the person objected to were present. This would follow from the provisions of subsections (9), (10), and (11) of section 28 of the Parliamentary and Municipal Registration Act, 1878 (b), which provide (amongst other things) that, as a general rule, the names of persons objected

(z) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 41.

(a) *Reg. v. Soden, Ex parte Kelly*, [1896] 1 Q. B. 499, 634 : *Reg. v. Soden and Overend*, [1897] 1 Q. B. 188.

(b) 41 & 42 Vict. c. 26, extended to counties by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

to shall be retained unless the objector appears by himself or by some other person on his behalf in support of his objection. If the objector so appears, then in cases of objections by overseers, which may be conveniently taken before other objections, the burden of proving his right to be on the list lies upon the person so objected to. In other cases the revising barrister must require the objector to prove that he gave the notice or notices of objection required by law to be given by him, and to give *prima facie* proof of the ground of objection, and for that purpose the revising barrister may himself examine and allow the objector to examine the overseers or any other person on oath touching the alleged ground of objection(c). It should be remembered that an objection must be heard, although the objector may himself have been previously struck off the list by the revising barrister at the same revision (d), or although the objector may have been reported guilty of corrupt practices by the judges on the trial of an election petition (e).

(b) *Mistakes in Objections*.—The revising barrister may correct any mistake in any notice of objection, as for instance, the omission under special circumstances of the objector's place of abode (f), or an inaccurate description of the list to which the objection refers (g), or the omission of the name of the parish for which the list to which the objection refers is made (h), provided that he is satisfied the mistake is not one which would under the circumstances have misled any person objected to, that is to say, that the uncorrected notice gives in substance all the information required to be given under the statutes to the person objected to. In *Bollen v. Southall*, decided in 1884, the notice of objection given to the overseers objected to certain names being retained “in the Blockhouse list of persons (Division 1) entitled to vote at the election of members to serve in Parliament for the Parliamentary borough of Worcester.” And there were three lists of parliamentary voters for the Blockhouse parish, viz., (1) occupiers, (2) freemen, and (3) lodgers. And it was held that the revising barrister had power to amend the notice. And again,

(c) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (10). Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(d) *Pease v. Town Clerk of Middlesborough*, [1893] 1 Q. B. 127.

(e) *Barr v. Chambers* (1887), 22 L. R. Ir. 264.

(f) *Adams v. Bostock* (1881), 8 Q. B. D. 259. See *ante*, p. 305.

(g) *Bollen v. Southall* (1884), 15 Q. B. D. 461; *Hartley v. Halse* (1888), 22 Q. B. D. 200.

(h) *Sandford v. Beal* (1895), 65 L. J. Q. B. 73.

in *Hartley v. Halse*, decided in 1888, a notice of objection given to the person objected to stated an objection to his name being retained on "the occupiers list of parliamentary voters for the borough of St. Pancras and as a county elector for the county of London." And it was held that the revising barrister had power to amend the notice by inserting the words "division one" after "occupiers list." But the revising barrister has no power to insert a ground of objection which the notice did not in its unamended form contain, because that is a matter of substance which every notice of objection must state specifically. In *Bridges v. Miller*, decided in 1887, the notice of objection to be given to the person objected to, who was on the list of freemen entitled to vote at parliamentary elections for the city and county of the city of Norwich, stated as the ground of the objection, "That you do not reside at the above address," viz., No. 12, Clifton Street, in the city of Norwich, which was the address given on the said list as the voter's place of abode. The revising barrister amended this by inserting, "That you have not resided at the above address for six calendar months next preceding July 15th last, and that you have not throughout that period resided within the city of Norwich, or within seven miles thereof." But the court held that the notice, as it was before it was altered, disclosed no ground of objection, and that the revising barrister had no power to insert something different to the plain statement of the objector in order to make the notice disclose a ground of objection (*i*).

(c) *Proof of notice of objection*.—It is a condition precedent to the right to insist upon an objection to any person upon a list of voters, that proper notices of objection should have been proved to have been given both to the overseers of the parish or township to which such list relates and to the person objected to. The overseers have no right to waive the giving to them of a proper notice of objection, although, as above pointed out (*k*), they may in certain cases waive the giving to them in due time of a proper notice of claim. But in the case of notice of objection to the overseers, the person objected to has a right to see whether the conditions imposed by the Act have been fulfilled, and if they have not to take advantage of the fact to defeat the objection (*l*). It is sufficient to prove that the notice of objection was, in fact, received in due time by the overseers, although it was not

(*i*) *Bridges v. Miller* (1887), 20 Q. B. D. 287.

(*k*) *Ante*, p. 293.

(*l*) *Freeman v. Norman* (county) (1883), 12 Q. B. D. 373; *Barton v. Ashley* (borough) (1845), 2 C. B. 4.



personally served upon any one of them, or left at his place of abode or office, or other place of transacting parochial business, by the person making the objection, nor posted to them in the manner prescribed in section 100, but was sent to them by post in the ordinary way, addressed to them as the overseers of the particular parish or township without naming the county (*m*). It is sufficient *prima facie* evidence that the overseers in fact received notice of objection in due time, if it be shown that they acted upon it, because it cannot be assumed that they acted upon it wrongfully, but evidence may be given to prove the contrary (*n*). If the objector post the notice of objection to the overseers in the ordinary way, it must be proved that they actually received it in due time, just as if he had served it upon them through an ordinary private agent. Actual receipt being proved, the service is sufficient (*o*).

If the provisions of section 100 of the Parliamentary Registration Act, 1843 (*p*), as to posting notices of objection are adhered to, the production by the party who posted or sent to be posted such notice, or by his agent employed by him for that purpose (*q*), of the stamped duplicate returned to him by the postmaster is evidence of the notice having been given to the person at the place mentioned in such duplicate on the day on which such notice would in the ordinary course of post have been delivered at such place. And if a notice of objection be duly sent by post in the manner prescribed by section 100, then, although in point of fact, owing to delays in transmission through the post, such notice does not actually reach the party for whom it is intended until after July 20th or August 20th, as the case may be, the notice is to be deemed to have been duly given, and the production of the duplicate is conclusive evidence that it has been duly given (*r*). The fact that the day on which the notice would in the ordinary course of post have been delivered to the person at the place to which it is addressed happens to be Sunday, does not invalidate the giving of such notice (*s*). The ordinary course of post of which evidence must be given by the objector must include and

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(*m*) *Jones v. Innous* (1855), 17 C. B. 290.

(*n*) *Godsell v. Innous* (county) (1855), 17 C. B. 295.

(*o*) *Smith v. James* (county) (1861), 11 C. B. (N.S.) 62; *Smith v. Huggett* (borough), 11 C. B. (N.S.) 55.

(*p*) 6 & 7 Vict. c. 18.

(*q*) *Cuning v. Toms* (1844), 7 M. & G. 29.

(*r*) *Bishop v. Helps* (1845), 2 C. B. 45; *Hornshy v. Robson* (1856), 1 C. B. (N.S.) 63; *Moore v. Forest* (1879) 6 L. R. Ir. 143.

(*s*) *Colvill v. Lewis* (borough) (1846), 2 C. B. 60.

cover the transit from the nearest post office to the place of abode mentioned on the address, and he must show what the time is which this transit usually requires (*t*). In the case of a notice of objection to be given to the person objected to, if the place of abode of such person as described in the list is a place at which there is no postal delivery, the objector cannot adopt the method of sending the notice of objection by post under section 100, so as to avail himself of the production of the stamped duplicate notice as evidence of the fact that notice has been given to the person objected to (*u*). But "no postal delivery" does not mean no delivery by any servant of the post office into a house or letter box. It is sufficient if there is a practice of delivery by private conveyance, as by persons calling for their letters. Thus in *Hudson v. Louth*, an Irish case decided in 1879, the place of abode of the person objected to as described in the list was "Regeens, Lusk," and there was no postal delivery from Lusk to Regeens, but persons living in the neighbourhood used to call at Lusk for their letters, and this was held to be the ordinary course of post for delivery at the place of abode (*x*). So also in *Kemp v. Wanklyn*, decided in 1894, the Court of Appeal held, reversing *Childs v. Cox*, decided in 1887, that where the place of abode as described in the list was a barracks, and by the military and postal regulations letters were delivered to soldiers in barracks by means of orderlies, who fetched them from the nearest post office, this was held to be the ordinary course of post for delivery at the barracks (*y*). The duplicate produced to prove that the original notice has been given must be a document resembling the postal notice in all essentials. They must be, as the statute says, alike in their address and in their contents. It does not, however, matter if the document produced to prove that notice has been given has the word "copy" written on the top of it, even assuming that the word "copy" was not written on the top of the document transmitted by the postmaster to the person to whom notice is intended to be given (*z*). The duplicate produced to prove that a notice of objection has been duly given must be

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(*t*) *Doogun v. Colquhoun* (1886), 20 L. R. Ir. 361; *Woods v. Cochrane* (1895), Lawson's notes, 104.

(*u*) *Lewis v. Evans* (1874), L. R. 10 C. P. 297.

(*x*) *Hudson v. Louth* (1879), 6 L. R. Ir. 69. See also *Adams v. Buchanan* (1885), 18 L. R. Ir. 292.

(*y*) *Kemp v. Wanklyn*, [1894] 1 Q. B. 265, 583, overruling *Childs v. Cox* (1887), 20 Q. B. D. 999.

(*z*) *Benesh v. Booth* (1864), 18 C. B. (N.S.) 111.

signed by the objector himself, because it is necessary that the original notice should be signed by the objector himself, whereas an original notice of claim need not, as already pointed out, be signed by the claimant personally (*a*). Therefore, a so-called duplicate notice of objection, not signed by the objector himself, but by some other person, although by the direction of the objector himself and in his presence, is not a duplicate at all of such a notice as is required by the statute, and no evidence that a proper notice of objection has been given (*b*). The production of a proper duplicate notice of objection, duly stamped and signed by the objector himself, is not only evidence that proper notice of objection has been given to the person to whom it is directed, but also that the original notice was duly signed by the objector himself (*c*). The duplicate notice of objection must be duly directed to the person objected to at his place of abode, as described in the list. In the case of *Noseworthy v. The Overseers of Buckland-in-the-Moor*, decided in 1873, the overseers wrongfully, and without having power to do so, altered the place of abode of the person objected to as described in the list, although that place of abode as originally described in the list was, as a matter of fact, incorrect, and the place of abode as altered was correct. The court held that a duplicate notice of objection, addressed to the place of abode as corrected, was not evidence that proper notice of objection had been given (*d*). It would seem from this case that if the place of abode as described in the list is strictly adhered to in addressing a notice of objection and duplicate in carrying out the provisions of section 100, it will not matter if such place of abode is not the actual residence of the person objected to. The place of abode as described in the list means only the place of abode as entered in the column for that purpose opposite to the name of the person objected to, and it is not necessary to add the name of the parish or township to which such portion of the register relates as contained in the heading thereof (*e*). Nor is it necessary to add the name of the post town or county (*f*). But it is not a material alteration if the name of the post town and county is added to the address after the place of abode of the

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(*a*) *Ante*, pp. 280, 281.

(*b*) *Toms v. Cuming* (1845), 7 M. & G. 88.

(*c*) *Lewis v. Roberts* (1861), 11 C. B. (N.S.) 23.

(*d*) *Noseworthy v. The Overseers of Buckland-in-the-Moor* (1873), L. R. 9 C. P. 233.

(*e*) *Flint v. Sharp* (1855), 17 C. B. 281.

(*f*) *Finucan v. Caran* (1879), 6 L. R. Ir. 137; *Moore v. Forrest* (1879), 6 L. R. Ir. 142.

person objected to as described in the list (*g*). The address must be external, or else the duplicate is not a duplicate of a notice of objection duly directed, and the production is not evidence of a proper notice of objection having been given (*h*). It does not matter if the address is on the back of the duplicate, so long as it is on the outside of it, nor does it matter in the case of a notice of objection in respect of an occupation franchise that the place of abode of the person objected to, as described in the list, appears only in such address and not on the face of the duplicate notice (*i*). If the objector produce a duplicate to prove the giving of the original notice, and the person objected to produce the original in order to show that the document produced as a duplicate by the objector is not sufficient, then, although the duplicate produced is not a proper duplicate, yet if the person objected to actually received the original which was the proper original in due time, it is sufficient (*k*).

(*d*) *Proof of grounds of objection*.—*Primâ facie* proof of the ground of objection is deemed to be given by the objector if it is shown to the satisfaction of the revising barrister by evidence, repute, or otherwise that there is reasonable ground for believing that the objection is well founded, and that by reason of the person objected to not being present for examination, or for some other reason, the objector is prevented from discovering or proving the truth respecting the entry objected to (*l*). If such proof is given by the objector, or if the objection is by overseers and the overseers or some one on their behalf appear in support of their objection, then unless the person objected to proves that he was entitled on the last day of July (*m*) then next preceding to have his name inserted in the list in respect of the qualification described in such list, the revising barrister must expunge the name of the person objected to (*n*).

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(*g*) *Cotton v. Prall, Akenhead's case* (1866), L. R. 2 C. P. 86.

(*h*) *Birch v. Edwards* (1847), 5 C. B. 45.

(*i*) *Barclay v. Parrott* (1856), 1 C. B. (N.S.) 49.

(*k*) *Norris v. Pilcher* (1868), L. R. 4 C. P. 417.

(*l*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (10); Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1. There is no appeal from the decision of the revising barrister as to whether *primâ facie* proof has been given or not. It is a matter entirely for him to decide and decide finally. *M'Daid v. Chambers (Keown's case)* (1894), 29 Ir. L. T. 81.

(*m*) This is the date fixed by the Act, notwithstanding the alteration effected in the period of qualification under s. 7. See *ante*, p. 338, note (*f*).

(*n*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26) s. 28 (11); Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.



(iii.) CLAIMS.—(a) *General procedure*.—In dealing with claims the revising barrister need not insert in any list of voters for a parish in a county or borough the names of persons claiming to be inserted in such list, but may revise the list of claimants in like manner as if it were a list of voters, and sign the same as so revised and deliver it to the clerk of the peace, or town clerk, as the case requires (*o*). He may and ought to proceed to the revision of occupiers' and lodgers' claim lists if the overseers have received the notices of the claims in due and proper time, although the overseers did not sign or publish such lists before August 25th, as they are required to do by the statutes, but signed and published such lists two or three days after that date (*p*); and it seems that he should do so with regard to the list of ownership claimants in counties, even if the overseers had not received the notices of ownership claims in due and proper time (*q*), as well as not signed or published such list on August 1st as required by the statutes, but signed and published them two or three days after that date (*r*).

Any person whose name is upon any list of voters for any county, city, or borough may oppose the claim of any person to have his name inserted in any list of voters for the same county, city, or borough; and such person intending to oppose any such claim must in the court holden for the revision of such list, and before the hearing of the said claim, give notice in writing to the revising barrister of his intention to oppose the said claim, and shall thereupon be admitted to oppose the same by evidence or otherwise, without any previous or other notice, and has the same rights, powers, and liabilities as to costs, appeal, and other matters relating to the hearing and determination of the said claim, as any person who has duly objected to the name of any other person being retained on any list of voters, and who has appeared and proved the requisite notices (*s*).

(*o*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (5).

(*p*) *Wells v. Stanforth* (1885), 16 Q. B. D. 244.

(*q*) See *Leonard v. Alloways* (1878), 48 L. J. C. P. 81; *Davies v. Hopkins* (1857), 3 C. B. (N.S.) 376, *ante*, p. 293.

(*r*) If the claim lists are not signed at all by the overseers, it seems that the revising barrister ought nevertheless to revise them, for the lists are not invalidated although the overseers may be punishable for neglect of duty either by fine or by penal action. See *ante*, pp. 290, 293.

(*s*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 39, extended to lodgers in boroughs by the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 30, and to lodgers in counties by the Registration

(b) *Proof of notice of claim.*—In revising the list of ownership claimants in counties the revising barrister has no power to require proof that a claimant whose name is upon the list gave due notice of his claim to the overseers. All that the revising barrister is entitled to require, when persons are on the list and are objected to, is proof that the claimant was on July 15th then next preceding entitled to have his name inserted in the list of persons entitled to vote at county elections (*t*). But if any person claims to be entitled to be registered in respect of an ownership qualification, and his name is not included in the list of ownership claimants, or in the ownership portion of the register, he must not only prove that he was on July 15th then next preceding entitled to have his name inserted in the list of persons entitled to vote at parliamentary elections for the county, but also that he gave due notice of his claim to the overseers, and unless he proves both these matters to the satisfaction of the revising barrister, the revising barrister is not bound to insert his name in the list of voters (*u*).

In revising the list of occupier claimants in counties and boroughs the revising barrister is not bound to insert in the list of persons entitled to vote for such county or borough the name of any claimant, whether objected to or not, appearing on the list of occupier claimants and not upon the list of voters for such county or borough, unless he was satisfied not only that the claimant was entitled on July 15th then next preceding to have his name inserted in such list of voters, but also that the claimant had given due notice of his claim to the overseers (*x*).

In revising the old lodgers' lists the revising barrister is bound to be satisfied with regard to every person objected to whose name is upon such list that he has duly claimed to be registered as such (*y*); and in revising the new lodgers' list the revising barrister is bound to be satisfied with regard to every person whose name is upon such list, whether objected to or not, that he

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Act, 1885 (48 & 49 Vict. c. 15), and to county electors and burgesses by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4.

(*t*) *Leonard v. Alloways* (1878), 48 L. J. C. P. 81; *Davies v. Hopkins* (1857), 3 C. B. (N.S.) 376.

(*u*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 37.

(*x*) *In re Sale* (1880), 50 L. J. C. P. 113. See this case discussed and distinguished in *M'Gregory v. Chambers* (*Brown's case*), [1894] 2 L. R. 129, where the court point out that in *In re Sale*, GROVE, J., said "It is a datum of this case that the applicant was a person omitted from the list of voters," by which he meant the occupiers' list Form D. as distinguished from the claimants' list Form K.

(*y*) *Horsant v. Hulse* (1886), 18 Q. B. D. 416.

has duly claimed to be registered as a lodger. And so also with regard to every person, whether objected to or not, whose name is not upon either the old or the new lodgers' list, and who claims to be registered as a lodger, the revising barrister must not only be satisfied that he has occupied as a lodger and resided in lodgings of the required value for the required period, but that he has also duly claimed to be registered as a voter in respect of such qualification.

If a notice of claim be duly sent by post in the manner prescribed by section 100 of the Parliamentary Registration Act, 1843 (z), then, although in point of fact owing to delays in transmission through the post the notice does not actually reach the overseers until after July 20th or August 20th, as the case may be, the notice is to be deemed to have been duly given to the overseers, and the production of the duplicate is conclusive evidence that the notice has been duly given (a).

(c) *Mistakes in claims*.—The revising barrister may correct any mistake which is proved to him to have been made in any claim, unless such correction amounts to changing the description of the qualification to a description of another and a different qualification. In the case of lodger claims the declaration is part of the claim and amendable accordingly. Thus where a lodger claiming as sole tenant omitted by mistake to erase from the declaration attached to his claim the words "[or as joint tenant with—]," it was held that the revising barrister had power to correct the mistake by striking out those words (b). But the power of amendment does not extend to deliberate omissions, as where a lodger claim deliberately omitted the date of attestation (c). The power of amendment is discretionary, and the court will not interfere with the decision of the revising barrister unless he has exercised his discretion upon a wrong principle, or has omitted to exercise it altogether. So in the case of *Pickard v. Baylis*, decided in 1879, in a claim made by a lodger not upon the old lodgers' list, the amount of rent paid was omitted, nor could that information be gathered from any part of his claim, and although evidence satisfactory to the revising barrister was given in his court as to what was the amount of the rent actually paid, the revising barrister refused to amend the claim on the ground that the

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(z) 6 & 7 Vict. c. 18.

(a) *Bayley v. Overseers of Nantwich* (1846), 2 C. B. 118.

(b) *Ainsley v. Nicholson* (1889), 24 Q. B. D. 144.

(c) *Smith v. Chandler* (1888), 22 Q. B. D. 208.

amount of the rent was required to be stated by an Act then just passed specially superseding the form of claim formerly in use, in which the amount of the rent paid was not required to be stated, and that it would be contrary to the policy of the later Act to allow such information to be given for the first time in court. The Common Pleas Division refused to reverse the decision of the revising barrister (*d*). On the other hand, in *Treadgold v. The Town Clerk of Grantham*, decided in 1894, an old lodger claim omitted the name of the parliamentary borough, but the overseers nevertheless duly published the name of the claimant in the list of old lodger claimants, and no evidence was given that anyone was misled by the omission. The revising barrister, however, refused to amend because he thought he had no power to do so, and that even if he had power he should by amending be creating a claim for a particular borough. But the High Court reversed his decision upon the ground that he had power to amend and ought to have amended since no one was misled by the omission (*e*).

The revising barrister may change the description of the qualification only for the purpose of more clearly and accurately defining the the same, and so that the correction does not amount to a description of another and a different qualification to the qualification claimed. For instance, in *Hitchins v. Brown*, decided in 1845, the description of the qualification in the claim was "house," "No. 5½, Muck Lane, St. Peter-at-Arches, Lincoln: and previously in occupation of a house, No. 21, St. Mary Street, in the parish of St. Mary-le-Wigford, Lincoln." The court held that the revising barrister had power to amend by describing it as "houses in succession, 21, St. Mary Street, St. Mary-le-Wigford, and 5½, Muck Lane, St. Peter-at-Arches" (*f*). And in *Flounders v. Donner*, decided in 1846, where the description of the qualification as stated in the claim was "House, Queen Street," "House, 15, Aberdeen Walk," it was objected to on the ground that the number of the house in Queen Street was not given; no evidence being given to supply the omission, and the revising barrister not being asked to amend, he expunged the name of the claimant. The court held that his decision must be affirmed (*g*). In *Barlow v. Mumford*, in 1866, the description of the qualification as stated in the claim was "House, Ely Place," and it was

(*d*) *Pickard v. Baylis* (1879), 5 C. P. D. 235.

(*e*) *Treadgold v. The Town Clerk of Grantham*, [1894] 1 Q. B. 163.

(*f*) *Hitchins v. Brown* (1845), 2 C. B. 25.

(*g*) *Flounders v. Donner* (1846), 2 C. B. 63.



objected to as insufficient on the ground that the number was not stated; the claimant gave evidence that the house was numbered 16, Ely Place, and applied to have his claim amended accordingly. The revising barrister amended the claim, and the court held that he had power to amend, and affirmed his decision (*h*). In *Hurcum v. Hilleary*, decided in 1894, the description of the qualification as stated in the claim was "dwelling-house successive," "13, Disraeli Road, from 31, Eglington Road," and it appeared that the claimant had lived only in 13, Disraeli Road for the whole of the qualifying period, and the revising barrister refused to amend by striking out the words "successive" and "from 31, Eglington Road," holding that he had not the power to do so. This decision was affirmed by the Queen's Bench Division and by the Court of Appeal, who held that it had been decided in *Bartlett v. Gibbs* (*i*) and *Foskett v. Kauffman* (*k*) that the qualification in respect of the occupation of one house is a different qualification from that in respect of the occupation of houses in succession (*l*). But in *Soutter v. Roderick*, decided in 1895, the description of the qualification as stated in the claim was "dwelling-house," "69 Richmond Road, 3, Hamilton Square," and it was proved that the claimant occupied the two dwelling-houses, 69, Richmond Road, and 3, Hamilton Square in immediate succession during the qualifying period, and the revising barrister amended the claim by inserting the word "successive" after "dwelling-house." And it was held by the High Court, upon the authority of *Hitchins v. Brown*, *supra*, that he was right (*m*).

The cases as to the amendment of lodger claims are rather more difficult, because it is more difficult to say what constitutes the description of the qualification therein, and so it is more convenient to refer to them all together. In *Clarke v. Torish* (*Aiken's case*) the Irish Court of Appeal held that where lodger claims stated the amount of rent paid as "10*l.* and upwards, included in salary" and "10*l.* and upwards" simply, the revising barrister had power to amend if necessary by inserting a specific sum for rent payable, and should do so if evidence was given before him to enable him to do so (*n*). But in a very similar case of *Jones v. Beveridge* (*Karanagh's case*), decided in 1886, the Irish Court of Appeal held that an amendment by

(*h*) *Barlow v. Mumford* (1866), L. R. 2 C. P. 81.

(*i*) 5 M. & G. 81.

(*k*) 16 Q. B. D. 279.

(*n*) *Clarke v. Torish* (*Aiken's case*) (1885), 18 L. R. Ir. 207.

(*l*) *Hurcum v. Hilleary*, [1894] 1 Q. B. 579.

(*m*) *Soutter v. Roderick*, [1896] 1 Q. B. 91.

substituting the words "estimated value 10*l.*" would not be sufficient to make the claim good (*o*), as they had just previously decided in *Bradley v. Colquhoun* that a lodger claim stating the amount of rent paid as "estimated rent 5*s.* weekly" was insufficient without amendment (*p*). In England in the case of *Reg. v. Mackellar*, decided in 1892, a lodger claimed to be registered in respect of the sole use of a bedroom and the joint use of a sitting-room, and by the declaration annexed to the claim stated that he had occupied the lodgings partly as sole tenant and partly as joint tenant, and that the lodgings were of the clear yearly value, if let unfurnished, of ten pounds and upwards; and the revising barrister being satisfied upon the evidence that the occupation of the bedroom alone was of the necessary value, amended both claim and declaration by striking out all reference to the joint tenancy. And it was held that he had power to do so because the qualification of a joint lodger was not another and a different qualification to that of a sole lodger (*q*).

As a matter of practice, in the case of notices of claims to be inserted in a list of voters, if there should be a mistake in the claim, and the correction of such mistake, if made, would not amount to changing the description of the qualification to a description of another and a different qualification, the barrister need not amend the notice. All he has to do is to see whether the error is such that if it had occurred in a list of voters he would have been justified in amending it. If so, he may receive evidence of the error on behalf of the claimant, and make the necessary amendment in the list of claimants accordingly (*r*).

If the matter stated in a claim or proved to the revising barrister in relation to any alleged right to be on any list is in the judgment of the revising barrister insufficient in law to constitute a qualification of the nature or description claimed, but sufficient in law to constitute a qualification of some other nature or description, the revising barrister, if the name is entered in a list for which such true qualification is in law appropriate, must correct such entry by inserting such qualification accordingly, and in any other case must insert the name with such qualification in the appropriate list, and must expunge it from the other list, if any, in which it is entered (*s*).

(*o*) *Jones v. Beveridge (Kavanagh's case)* (1886), 20 L. R. Ir. 380.

(*p*) *Bradley v. Colquhoun* (1886), 20 L. R. Ir. 378.

(*q*) *Reg. v. Mackellar*, [1893] 1 Q. B. 121.

(*r*) *Eulen v. Cooper* (1851), 11 C. B. 18; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (5).

(*s*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (12); Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(d) *Proof of grounds of claim.*—In the case of a person claiming to vote as a lodger, by section 23 of the Parliamentary and Municipal Registration Act, 1878, the declaration annexed to his notice of claim is for the purposes of revision *prima facie* evidence of his qualification (t), and this section of the Parliamentary and Municipal Registration Act, 1878, applies as well to declarations made by persons claiming to vote as lodgers for the first time as to declarations made by persons on the old lodgers' list. In all cases, therefore of lodgers' claims, both new and old, if a proper notice of claim, with declaration annexed, has been given, unless the claimant is objected to, and rebutting evidence given, the revising barrister must retain his name on the list, whether such claimant or any other person on his behalf appears in support of his claim or not. But, if objection is made and rebutting evidence given, it will be the claimant's own fault or negligence if he is not there to support his claim, and the revising barrister may adjudicate upon it in his absence (u). In order, however, to rebut the evidence afforded by the claim, the revising barrister ought not to act on mere hearsay (x).

(iii.) COSTS OF CLAIMS AND OBJECTIONS.—The costs of frivolous and vexatious claims or objections are specially provided for as follows, viz.:—If any person makes or attempts to sustain any groundless or frivolous and vexatious claim, or objection, or title, to have any name inserted or retained in any list of voters, the revising barrister may in his discretion order such person to pay the costs or any part of the costs, not exceeding in the whole the sum of 5*l.*, of any person or persons in resisting such claim, or objection, or title (y). And where any objection is made otherwise than by an overseer to any person whose name appears on a list of voters or burgesses or county electors and the name is retained on the list, the revising barrister must, unless he is of opinion that the objection was reasonably made either because of a defect or error in the entry to which the objection relates, or

(t) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 23, extended to lodgers in counties, Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(u) *Nuth v. Tamplin* (1881), 8 Q. B. D. 247. In the Scotch case of *Stirling v. Fletcher* (1895), 23 Ct. Sess. Cas. 130, it was held that if, on objection made which the objector proposed to prove by the evidence of the claimant himself, the claimant although duly summoned refuse to attend, the *prima facie* evidence contained in the claim will be thereby rebutted, although no other evidence is given in support of the objection. But *Nuth v. Tamplin* was not cited.

(x) *Dalgleish v. Dodds* (1894), 22 Ct. Sess. Cas. 198.

(y) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 46; County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 14.

because of a difficulty in verifying or identifying the particulars comprised in such entry, or unless for some special reason he otherwise determines, order costs not exceeding 40s. to be paid by the objector to the person objected to (z). And for every ground of objection which in the opinion of the revising barrister has been groundlessly or frivolously and vexatiously stated in a notice of objection, he must, on the application of the person objected to, or anyone on his behalf, and upon production of the notice of objection, award costs against the objector to the amount, at least, of two shillings and sixpence, and not exceeding five pounds, and this though the name of the person objected to be expunged upon some other ground of objection stated in the same notice of objection (a). Such an order must be in writing, and specify the sum to be paid, and by, and to whom, and when and where to be paid, and must be dated and signed by the revising barrister, and delivered by him to the person to whom the sum is ordered to be paid (b). The order may be made notwithstanding notice of appeal, but in case of appeal the order is suspended to abide the event, unless the court of appeal otherwise direct (c). No appeal is allowed against, or only in respect of such order (d). And it has been held by the Irish Court of Appeal under the corresponding Irish statute that no appeal lies from the decision of the revising barrister declining to make an order for costs against an objector who made a groundless objection (e). In the case of any objection, the order must be made before proceeding to hear any objection stated in any other notice of objection. Whenever the revising barrister has made such an order he may not hear or admit proof of any other objection, or notice of objection, made or signed by the person on whom such order has been made, until the sum so ordered to be paid has been paid to the person entitled to receive the same, or deposited in the hands of the revising barrister, in court, for the use of the person so entitled (d). And it has been held by the

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(z) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 27 (3), extended to objections to occupation and ownership voters in counties by Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, and to objections to county electors by County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4.

(a) County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 8, extended to objections in parliamentary and municipal boroughs by Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 26.

(b) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 46. And as to recovery of costs, see s. 71.

(c) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 46. See also *Wansley v. Perkins* (*Quigley's case*) (1845), 7 M. & G. 127, 133.

(d) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 46.

(e) *Burns v. MacLaine* (1894), 29 Ir. L. T. 20.



Irish Court of Appeal that no appeal lies against the decision of the revising barrister refusing to hear a witness until he had paid a fine imposed on him as an objector in a previous case (*f*).

After the examination of claims and objections, the revising barrister may take cases relating to those matters above mentioned, to be taken with the correction of errors, in which he may have given notice to the persons concerned of the proposal to expunge their names (*g*).

**(11) Transfers into other divisions.**—Where a list is made out in divisions, the revising barrister must place the name of any person in the division in which it should appear, according to the result of the revision, regard being had to the title of the person to be on the list, both as a parliamentary voter and as a burgess or county elector, or only in one of those capacities, and must expunge the name from the other division (if any) in which it appears (*h*). In *Jacob's Case, Greenway v. Bachelor*, decided in 1883, where an objection was taken to the name of a person being retained in Division I. of the list, which confers both the parliamentary and local government franchises, and it was admitted that the voter had no sufficient qualification for the parliamentary franchise, it was held that the revising barrister was not bound to place the name of the voter in Division III., which confers the local government franchise only, unless the voter had been able to prove, upon grounds which apply to Division III., that he was entitled to be placed there (*i*). The revising barrister has no power under this sub-section to transfer a name from Division III. to Division I. if it involves making a change in the description of the qualification otherwise than for the purpose of more clearly and accurately defining the same contrary to sub-s. (13) of the same section. So where a person whose name had been placed by the overseers in Division III. was objected to, and made a declaration of misdescription in which he stated that he possessed a qualification for Division I. as well as for Division III., but made no claim to be entered in Division I., it was held that the revising barrister had no power to transfer his name to Division I. (*k*).

**(12) Initialling, reading over, and signature of lists.**—The revising barrister must sign his initials in open court against the names respectively expunged or inserted (that is, the names

(*f*) *Hanbridge v. Campbell* (1893), Lawson's Notes, 347.

(*g*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (8); Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1. *Idem*, pp. 338, 339.

(*h*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28 (15).

(*i*) *Greenway v. Bachelor; Jacob's Case* (1883), 12 Q. B. D. 376.

(*k*) *Lord v. Fox*, [1892] 1 Q. B. 199.

not expunged from the list of claimants), and against any part of the list in which any mistake may have been corrected, or any omission supplied, or any insertion made, by him (*l*). He must read out audibly, in open court, the names expunged or inserted (*i.e.*, the names not expunged from the lists of claimants) by him, and all corrections and insertions made by him (*m*). After reading over the lists he must sign his name to every page of them (*n*).

## II.—MATTERS SUBSEQUENT TO REVISION.

(1) **Printing of lists and registers.**—In counties, on the completion of the revision of the lists of voters for the parishes in each polling district, and in boroughs on the completion of the revision for the whole borough, the revising barrister ought to deliver the revised lists to the clerk of the peace or town clerk, as the case may be (*o*). In parliamentary boroughs the town clerk must cause to be printed such number of copies of the revised lists of voters in parishes not situate in any municipal borough as the clerk of the peace may require, and transmit the same to him to be dealt with as with other lists of county electors in the same county (*p*). In municipal boroughs the town clerk ought to prepare a duplicate of the whole or part of the revised list made out in divisions and relating to that borough, and request the revising barrister to sign it as part of the business of revision. The duplicate so prepared and signed is kept by the town clerk for use for municipal purposes (*q*), and has the same effect as the original (*r*). The town clerk must also deliver to the clerk of the peace for the county such number of copies of the lists of burgesses as he may require for making up the county register (*s*).

The clerk of the peace or town clerk, when he has received the revised lists, must insert in the proper place in the lists of voters the name of each person appearing from the revised lists of

(*l*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 41.

(*m*) County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 15.

(*n*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 41; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (5).

(*o*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 47, 48; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 31; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (6).

(*p*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (f).

(*q*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 31; Registration Order, 1895, Sched. 2, Instructions, 17; Sched. 3, Instructions, 13.

(*r*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 45 (7).

(*s*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7 (1); Registration Order, Sched. 3, Instructions, 20.

claimants signed by the revising barrister (*t*). When the names of the claimants held entitled to be registered have been properly inserted in the revised lists the clerk of the peace or town clerk must cause the lists of parliamentary voters to be copied and printed in a book, arranged according to the division of the county or borough into polling districts, in their alphabetical order. The lists for every polling district must be arranged according to the parishes and townships therein contained in the alphabetical order of their names, and so that the list of voters for each parish or township may be completely cut out or detached from all the other lists contained in the same book (*u*). The names of freemen, however, are not arranged under the heading of a parish, but are placed in a separate list simply with the name of the polling district to which they have been allotted. This was a practice which received judicial sanction in the case of *Hart v. Beard*, decided in 1895 (*v*), and is now enjoined by the Registration Order, 1895 (*x*). The clerk of the peace, as clerk of the county council, must also make up the lists of county electors and burgesses according to electoral divisions and polling districts for county council elections (*y*).

The lists of voters for each parish and township in a polling district must (subject as hereinafter mentioned) be arranged according to the alphabetical order of the surnames of the voters in each list (*z*). The lists and registers of parliamentary voters in a parliamentary borough, and the burgess lists and rolls in a municipal borough, and the lists of voters and county register where a municipal borough or urban district is co-extensive with any electoral division or divisions of a county, may, if the local or county authority respectively so direct, and, since the year 1888, the lists and registers of parliamentary voters and of county electors in the metropolis, and in every parliamentary borough the whole or the greater part of which is situate in the metropolis must, unless the local authority otherwise direct, be arranged in the order in which the qualifying premises appear in the parish rate books, or so nearly in that order as will cause the lists and registers to record the qualifying premises in successive order in the street or other place in which they are situate (*a*).

(*t*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (5).

(*u*) Parliamentary Registration Act, 1843 (6 Vict. c. 18), ss. 47, 48; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 34.

(*v*) *Hart v. Beard*, [1896] 1 Q. B. 54.

(*x*) Registration Order, 1895, Sched. 3, Instructions, 12.

(*y*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. (4) 2 (e).

(*z*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 47, 48.

(*a*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 21; County Electors Act, 1888 (51 & 52 Vict. c. 10), ss. 4 (3), 5.

In each polling district in a county, besides the list of the voters for each parish and township within such polling district, the clerk of the peace must insert after the last of such list a supplemental alphabetical list of persons who have been registered to poll at the polling-place of such district, although their qualifications are situate in other districts. In counties, every name on the lists for all the parishes and townships and on the supplemental list in each polling district must have a number prefixed to it from the first name down to the last, so that there may be a separate series of numbers for each polling district, the names in the supplemental list for any polling district being numbered consecutively after the rest of the lists in such polling district, and such distinctive letter shall be applied to each polling district as may be determined by the local authority creating the polling district, or in default of such determination by the clerk of the peace (*b*). But the names of persons registered to poll at some polling-place not within the district within which their qualification is situate are to be distinguished in the lists of the parish or township in which their names originally appeared by asterisk only, and no number is to be prefixed to such names (*c*).

In boroughs, every name is to be distinguished by a number, either alone or in combination with such letter or distinguishing mark as the local authority under the Parliamentary and Municipal Registration Act, 1878 (*d*), from time to time fixes, and there must be one series of numbers for the whole of each parliamentary borough, or, if it is divided into divisions, for each division of such borough, and for the whole of each municipal borough, or, if it is divided into electoral divisions or wards for each division or ward, save that if the local authority so direct, there may be one series of numbers for the whole borough, whether parliamentary or municipal, or a separate series of numbers for each polling district, whether parliamentary or municipal (*e*).

In counties and boroughs, where the revising barrister has placed a mark against any name signifying that the name is to be printed in Division III. of the occupiers list or in the parochial electors' list, that name must be printed accordingly in the proper order (alphabetically, or in the street order) in Division III. or in the parochial electors' list, as the case may be, and where the revising barrister has placed against any name of a person entered both in

(b) Registration Act, 1885 (48 & 49 Vict. c. 45), s. 1 (7); (8); Registration Order, 1895, Sched. 2, Instructions, II. 12, 13.

(c) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 47; Registration Order, 1895, Sched. 2, Instructions, 14 (i).

(d) 41 & 42 Vict. c. 26.

(e) Registration Order, 1895, Sched. 3, Instructions, 16.



the ownership and occupation list of voters in the same parish a mark or note signifying that the name should be printed in Division III. of the lists, an asterisk or other mark must be there printed against the name (*f*).

The clerk of the peace must add at the end of the book a summary of the number of voters in each polling district (*g*).

(2) **Custody of parliamentary register.**—When completed, the clerk of the peace or town clerk ought to sign the book, and on or before the last day of December deliver it to the sheriff of the county or the returning officer of the borough, as the case may be, to be by him and his successors safely kept, and thereupon it becomes the register of voters for the county or borough respectively at any election which takes place during the year commencing on the ensuing first of January (*h*).

Although the signature and delivery of the printed books by the clerk of the peace or town clerk to the sheriff or returning officer ought to take place on or before the last day of December, it is not a condition precedent to the validity of the register that they should be so signed and delivered on or before that date. If the clerk of the peace or town clerk does not sign and deliver them on or before that date, he may be subject to a penalty, even perhaps to an indictment; but when he has in fact signed and delivered them, although after that date, they then become a valid register, which before signature and delivery they are not. The clerk of the peace or town clerk may therefore, and ought to, correct any mistake in them, according to the intention of the revising barrister, at any time before signature and delivery; as, for instance, in the case of *Brumfitt v. Bremner*, in 1860, where the revising barrister had by mistake expunged the name of a person, and had endeavoured to erase the erasure and had not signed his initials against it, but the printer had nevertheless supposed the name to be expunged and had omitted it. Under these circumstances the clerk of the peace corrected the mistake by inserting the name in the proper place before signature and delivery, but after the date on which signature and delivery should have taken place. It was held that the clerk of the peace had only done what he was bound to do in correcting the mistake (*i*).

(*f*) Registration Order, 1895, Sched. 2, Instructions, 14 (ii); Sched. 3, Instructions, 17.

(*g*) Registration Act, 1885 (48 & 49 Viet. c. 15), s. 4 (8); Registration Order, 1895, Sched. 2, Instructions, 15.

(*h*) Parliamentary Registration Act, 1843 (6 & 7 Viet. c. 18), ss. 47 and 48; Representation of the People Act, 1867 (30 & 31 Viet. c. 102), s. 38; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Viet. c. 26), s. 32.

(*i*) *Brumfitt v. Bremner* (1860), 9 C. B. (N.S.) 1.

(3) **Copies of parliamentary register.** The clerk of the peace and town clerk must send a printed copy of the register for their county or borough respectively to one of Her Majesty's principal Secretaries of States within twenty-one days after February 21st in each year (*j*).

The clerk of the peace and town clerk must keep printed copies of the register for their county or borough respectively for sale to any person applying for the same, on payment of the price fixed by Table 2, Schedule D., of the Parliamentary Registration Act, 1843, but no person is entitled to a copy of any part of any register relating to any parish or township without taking or paying for the whole that relates to such parish or township (*k*).

(4) **County registers and burgess rolls.**—When the lists of county electors and burgesses have been revised, the clerk of the peace for every county must make up the county register, that is to say, a register of all persons registered as burgesses or county electors in the county (*l*), making separate registers for each electoral division into which the county is divided for the election of the county council, such separate registers being called division registers, and together being the county register (*m*). The clerk of the peace must cause the county register to be printed, and must deliver printed copies to any person on payment of a reasonable price for each copy (*n*).

The county register must be completed on or before December 20th in every year, and comes into operation on the following January 1st (*o*).

In every municipal borough the town clerk must perform the like duties in respect of the burgess roll for such borough. The burgess roll, however, must be completed on or before October 20th, and comes into operation on November 1st (*p*), and on and after November 1st the burgess lists forming that roll form part of the county register until the next January 1st in substitution for the former burgess lists (*o*).

(*j*) Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 37.

(*k*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 49.

(*l*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7.

(*m*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 45; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7.

(*n*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 48; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7.

(*o*) County Councils Act, 1891 (54 & 55 Vict. c. 68), s. 2.

(*p*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 45 and 48. Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 33.

The clerk of the district council, not being the council of a municipal borough, must in like manner make a district register of county electors within his district (*q*).

**(5) Receipts and expenses of clerks of the peace and town clerks.**—The proceeds of the sale of copies of the register and of all fines paid over to the clerk of the peace or town clerk, must be paid over by the clerk of the peace to the county treasurer, to be applied in aid of the county rate, and by the town clerk to the overseers, in aid of the poor rate, the share payable to each parish being regulated by the proportion which the number of its voters bears to the whole number on the register (*r*).

The expenses of the clerk of the peace in respect of the registration of parliamentary voters are paid out of the county fund (*s*), and those of the town clerk (except with regard to any area common to both a parliamentary and a municipal borough (*t*)) out of the poor rate (*u*); every parish contributing in the proportion which the number of its voters bears to the whole number upon the register (*x*). With regard to any area common to both a parliamentary and a municipal borough, only one-half of the expenses of the town clerk are payable out of the poor rate, the other half being payable out of the borough fund (*y*). These expenses include not only moneys laid out by the town clerk, or clerk of the peace, in doing anything that he might not have done, or been able to do, in his own office, with the assistance of his ordinary staff of clerks, but also all proper and reasonable fees and charges for his trouble, care, and attention in the performance of the services and duties imposed on him by the Parliamentary Registration Act, 1843; the Representation of the People Act, 1867 (*z*); the Parliamentary and Municipal Registration Act, 1878 (*a*); the Representation of the People Act, 1884 (*b*); and the Registration Act, 1885 (*c*); section 31 of the Representation of the People Act, 1867 (*d*), being enacted expressly to overrule the

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(*q*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7 (3).

(*r*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 53; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 30.

(*s*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 54.

(*t*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 30.

(*u*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 55.

(*x*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 55.

(*y*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 30.

(*z*) 30 & 31 Vict. c. 102 (see s. 31).

(*a*) 41 & 42 Vict. c. 26, s. 30.

(*b*) 48 & 49 Vict. c. 3.

(*c*) 48 & 49 Vict. c. 15 (see s. 8).

(*d*) 30 & 31 Vict. c. 102.

decisions in *Reg. v. Kingston-upon-Hull* (1) (e); *Reg. v. Kingston-upon-Hull* (2) (f); and *Reg. v. Allday* (g). And these expenses also include moneys properly expended by the clerk of the peace or town clerk as respondent to an appeal from the decision of the revising barrister, including any costs which he may be ordered to pay to the appellant (h).

The expenses of the clerk of the peace must be laid before the county council, and the council may make an order on the county treasurer for payment of so much as they allow out of the county fund (i). The expenses of the town clerk, and the proportion payable by each parish, must be laid before the town council, and the council must give the town clerk a certificate of the amount allowed by them, and the proportion to be paid by each parish, and overseers are bound to pay to him the contribution due from their parish or township, out of the first poor rate collected by them (k). The expenses properly incurred by a clerk of the peace or town clerk as respondent to an appeal, including any costs which he may be ordered to pay to the appellant, must be allowed him as part of the expenses incurred by him in respect of the revision of the list to which the appeal relates (m).

A summary remedy by warrant of distress upon information and complaint before justices is given to town clerks and returning officers under section 23 of the Parliamentary Electors Registration Act, 1868 (n), for recovery of the amount due from the overseers.

The expenses and receipts of the clerk of the peace and town clerk respectively in the registration of county electors are paid out of or into the county or borough fund respectively; and such expenses include all proper and reasonable fees and charges made and charged by him for trouble, care, and attention in the performance of his services and duties in that behalf (o). The expenses and receipts of the town clerk in respect of the enrolment of burgesses in a purely municipal borough are payable out of or

(e) *Reg. v. Kingston-upon-Hull* (1) (1853), 2 E. & B. 182.

(f) *Reg. v. Kingston-upon-Hull* (2) (1853), 25 L. T. 197.

(g) *Reg. v. Allday* (1857), 26 L. J. Q. B. 292.

(h) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 38.

(i) Parliamentary Registration Act, 1813 (6 & 7 Vict. c. 18), s. 54. Local Government Act, 1888 (51 & 52 Vict. c. 41), ss. 3 (xii.), 68 (2).

(k) Parliamentary Registration Act, 1843 (6 Vict. c. 18), s. 55; Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (xii.).

(m) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 38.

(n) 31 & 32 Vict. c. 58, s. 23.

(o) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 8.



into the borough fund. Where any area is common to a municipal and to a parliamentary borough, one half of the expenses and receipts of the town clerk in respect of the registration of the parliamentary voters and burgesses for such area is payable out of or in aid of the poor rate as above described, and the other half out of or into the borough fund; and his expenses or receipts in respect of any exclusively parliamentary or municipal area are payable as if such area were a separate parliamentary or municipal borough of itself, but if there is more than one such area, then the revising barrister must decide in respect of which of such areas any expenses or receipts are incurred or arise, and must apportion the amount between such areas with regard to the number of electors in each, or any other circumstances occasioning the expenses or giving rise to the receipts (*p*). It seems that no order of the town council is necessary for the payment out of the borough fund of so much of the town clerk's expenses as is payable thereout, because it is so payable under the direct authority of an Act of Parliament (*q*).

### III. APPEALS.

(1) **When appeal lies.**—No appeal lies against any decision of a revising barrister upon any question of fact only, or upon the admissibility or effect of any evidence or admission adduced or made in any case to establish any matter of fact only (*a*). But certain persons may, in certain cases, appeal to the High Court of Justice (Queen's Bench Division) against any decision of a revising barrister on any point of law material to the result of such case.

Thus it has been held that whether the name subscribed to a notice of objection is so subscribed as to be commonly understood to be the same as that by which the objector is designated in the list of voters, is a question of fact for the revising barrister, and no appeal lies from his decision (*b*). So also, whether the particulars of description of the place of abode and nature of the qualification of any person whose name appears in the list are sufficiently described for the purpose of being identified (*c*). And the question what is the clear yearly value of the premises in respect of which a ten pounds occupation

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(*p*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 25), s. 30.

(*q*) Municipal Corporations Act, 1885 (45 & 46 Vict. c. 50), s. 140.

(*a*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 65.

(*b*) *Hinton v. Hinton* (1844), 7 M. & G. 163.

(*c*) *Wood v. The Overseers of Witleyden* (1845), 2 C. B. 15.

qualification is claimed (*d*). But not the question as to the principle whereby such value should be ascertained (*e*). Whether the statement in a notice of objection of the place of abode of the objector is sufficient or not may be either a matter of law or a matter of fact. Thus, if the revising barrister were to hold that to be a sufficient description which from its extreme generality and ambiguity the court must see to be manifestly insufficient; for instance, King Street as the place of abode of an objector in London—that would be a matter of law subject to be reviewed by the court. But where the description is such as to point out the place of abode with such a degree of certainty as to be commonly understood, whether or not it is sufficient to answer the purpose required by the statute, may be matter of fact for the revising barrister alone to determine (*f*). In much the same way, whether the service of a notice of objection is sufficient or not may be a question of fact for the revising barrister (*g*) or may involve a question of law for the court (*h*). So also whether an erection is a building or not (*i*). The Irish cases of *Keys v. Collum* and *Carroll v. Fisher* afford instances of cases where an appeal was held not to lie because the question was as to the admissibility of evidence. In *Keys v. Collum*, the question was as to whether a tracing from the Ordnance map was admissible to prove that certain premises, in respect of which a qualification was claimed, were within the limits of the parliamentary borough for which it was claimed (*k*). In *Carroll v. Fisher*, the question was whether probate of a will was admissible to prove a devise of freehold (*l*). It should also be noticed that there are questions upon which the decision of the revising barrister is made final by the express words of the statute, *e.g.*, as to overseers' expenses (*m*), and questions on which his decision is final, because no appeal is expressly given, *e.g.*, from his decision as to the sufficiency of a voter's notice of selection in the case of duplicate entries (*n*), or

(*d*) *Coogan v. Luckett* (1846), 2 C. B. 182.

(*e*) *Colrill v. Wood* (1846), 2 C. B. 210.

(*f*) *Sheldon v. Fletcher* (1847), 5 C. B. 14. See *per* WILDE, C.J., on pp. 19, 20. See also *Thackway v. Pilcher* (1866), L. R. 2 C. P. 100; *Norris v. Pilcher* (1868), L. R. 4 C. P. 47.

(*g*) *Watson v. Pitt* (1848), 5 C. B. 51.

(*h*) *Points v. Atwood* (1848), 6 C. B. 38. See *per* MAULE, J., on pp. 46, 47.

(*i*) *Watson v. Cotton* (1847), 5 C. B. 51; *Powell v. Farmer* (1865), 18 C. B. (N.S.) 169; *Powell v. Boraston* (1865), 18 C. B. (N.S.) 175.

(*k*) *Keys v. Collum* (1857), 7 Ir. C. L. 385.

(*l*) *Carroll v. Fisher* (1864), 15 Ir. C. L. 369.

(*m*) Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 32.

(*n*) *Reg. v. The Revising Barrister for Liverpool and Chadwick*, [1895] 1 Q. B. 155.

rom his refusal to mark a duplicate entry of a county elector (*o*), or refusal to hear a barrister in his character of president of a political association (*p*), or to hear a witness until he has paid costs imposed upon him as objector in a previous case (*q*), or refusal to make an order for payment of costs by an objector (*r*), or refusal to hear claims after the lists are closed (*s*).

(2) **Who may appeal.**—Persons who may appeal include any person who shall have made any claim to have his name inserted in any list, or made any objection to any other person as not being entitled to have his name inserted in any list, or whose name shall have been expunged from any list, and who in any such case shall be aggrieved by or dissatisfied with any decision of the revising barrister on any point of law material to the case (*t*). An appellant must combine both characters. For instance, an objector without a grievance cannot appeal. Thus in *Jones v. Marshall*, decided in 1871, the revising barrister having decided that a notice of objection was bad, agreed to state a case. Proceeding, however, with the revision as if the notice were good, he struck off the name objected to, directing (which he had no power to do) that it should be restored if the court should hold that the notice of objection was bad. The court, however, refused to entertain the appeal (*u*). Moreover, appellants otherwise duly qualified must also be at the same time persons who are not legally incapacitated from voting. For instance, a woman, although her name may have been expunged from a list of parliamentary voters, has no *locus standi* to appeal (*v*).

(3) **Appeals to the Queen's Bench Division.**—All appeals or matters of appeal from or in respect of any decision of any revising barrister, must be prosecuted, heard, and determined in and by the High Court of Justice (Queen's Bench Division), as exercising the jurisdiction formerly vested in the Court of Common Pleas, according to the ordinary rules and practice of Her Majesty's Court of Common Pleas, at Westminster, in June, 1843, with respect to special cases, so far as the same may be applicable, and not inconsistent with the provisions of the Parliamentary

(*o*) *Arnold v. Sharpe* (1891), 1 Fox & Smith, 252.

(*p*) *O'Connor v. Nicholson* (1891), 1 Fox & Smith, 250.

(*q*) *Hanbridge v. Campbell* (1893), Lawson's Notes, 347.

(*r*) *Burns v. MacLaine* (1894), 29 Ir. L. T. 20.

(*s*) *Reg. v. Soden, Ex parte Kelly*, [1896] 1 Q. B. 634; *Reg. v. Soden and Overend*, [1897] 1 Q. B. 188.

(*t*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 42, 44.

(*u*) *Jones v. Marshall* (1871), 1 Hopw. & Colt. 738.

(*v*) *Wilson v. The Town Clerk of Salford* (1868), L. R. 4 C. P. 398.

Registration Act, 1843 (*x*), or in such manner and form, and subject to such rules and regulations, as the Court of Common Pleas, up to November 1st, 1875, and since that date as the Rule Committee of the Supreme Court, from time to time by any rule or order made for regulating the practice and proceedings in such appeals, have ordered and directed, or shall order and direct (*y*).

(4) **Notice to revising barrister.**—The proper method of proceeding is for the person entitled to appeal, or some one on his behalf, to give to the revising barrister in court, before the rising of the court, on the same day on which the decision to be appealed against is pronounced, a notice in writing that he is desirous to appeal, stating shortly in such notice the decision against which he desires to appeal, and requiring the revising barrister to name the clerk of the peace, or town clerk, as the respondent or one of the respondents to the appeal, for the purpose of getting an order, if the appeal is successful, for the payment of his costs by the clerk of the peace or town clerk so named as a respondent (*z*). It is very important that this notice should be given not orally but in writing and before the rising of the court on the same day on which the decision is pronounced, for otherwise the appeal cannot be heard even if the revising barrister consents to state a case and does state it (*a*).

(5) **Statement of case and parties.**—The revising barrister may then consider whether in his opinion it is reasonable and proper that such appeal should be entertained. If he think it reasonable and proper, he may state in writing the facts which, according to his judgment, have been established by the evidence, and are material to the matter in question (*b*). The facts must be stated as facts established by the evidence, and the evidence establishing the facts must not be stated (*c*). Only those facts may be stated which the revising barrister, in his judgment, without reference to the opinion or consent of the parties, may

(*x*) 6 & 7 Vict. c. 18.

(*y*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 60; Supreme Court of Judicature Act, 1873 (36 & 37 Vict. c. 66), s. 34; Supreme Court of Judicature Act, 1875 (38 & 39 Vict. c. 77), s. 17; Order in Council, December 16th, 1880.

(*z*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 42. Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 38.

(*a*) *Gaise v. Dille* (1892), 1 Fox & Smith, 283.

(*b*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 42.

(*c*) *Pitts v. Smalley* (1845), 7 M. & G. 85, and note (*a*) thereon. See also Lawson's Notes 348, where it is said that during the course of the hearing by the Court of Appeal in Ireland of appeals from revising barristers in 1893, the Court objected to the way in which the cases had been stated; all the evidence having been set out and the finding then given and the Court being asked merely was the revising barrister right or wrong in the finding he arrived at.



consider material (*d*). After stating the facts the revising barrister must add his decision upon the whole case, and also his decision upon the point of law in question appealed against (*b*). The statement must be made, as nearly as conveniently may be, in the usual manner in which a special case is stated for the opinion of the High Court of Justice (Queen's Bench Division) upon any decision of any court of quarter sessions (*e*), and may be made at any time within ten days after the conclusion of the revision, so that it be made not less than four days before the first day of the Michaelmas sittings next after the decision to which the appeal relates, and the statement need not be read over to the appellant in open court (which was formerly necessary), but must be submitted to the appellant, who, if he approves the same, must sign his declaration at the end of it, and return it to the revising barrister (*f*). The statement must be signed by the revising barrister, but if the statement is not signed at all, and the revising barrister is dead when the time arrives for the appeal to be entered, the first step requisite to support an application for leave to enter the appeal without the case having been signed is that it should be clearly proved that the revising barrister had in fact finally approved of the case, as stated (*g*).

After the statement has been submitted to him the appellant, or some one on his behalf, must at the end of the statement make a declaration in writing under his hand to the following effect, that is to say, "I appeal from this decision" (*h*).

The revising barrister must then indorse upon the statement the name of the county and polling district, or city or borough, and of the parish or township to which the same relates, and also the christian name and surname and place of abode of the appellant and of the respondent, and must sign and date such indorsement (*h*).

The revising barrister, if so required, must, and in any case may, name the clerk of the peace or town clerk as respondent, for the purpose of enabling the appellant, if successful, to get an order for the payment of his costs by the clerk of the peace or town clerk (*i*).

(*d*) *Hinton v. Town Clerk of Wenlock* (1844), 7 M. & G. 166 n.

(*e*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 42, as affected by the Judicature Acts.

(*f*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6 (2).

(*g*) *Nettleton v. Burrell* (1844), 7 M. & G. 35.

(*h*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 42.

(*i*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 38.

If the clerk of the peace or town clerk is not so named as respondent, or in addition to the clerk of the peace or town clerk so named, the person in whose favour the decision appealed against has been given is to be the respondent. But if there is no such person, or if such person, or some one on his behalf, in open court decline, and state in writing that he declines to support the decision appealed against as respondent, the revising barrister may name any person who may be interested in the matter of the appeal and who may consent, or may, whether they or he consent or not, name the overseers of any parish or township, or the town clerk of any city or borough, as the respondent or respondents in the case (*k*).

The indorsement must be signed by the revising barrister before the case is transmitted by the appellant to the Central Office of the Supreme Court to be entered for hearing, which must be done within the first four days of the Michaelmas sittings next after the decision to which the appeal relates (*l*). But if the revising barrister were dead, as in *Nettleton v. Burrell* (*m*), it might be that the court, upon clear proof that he had named the respondents and finally approved of the case as stated, could permit the appeal to be entered for hearing, and probably would do so, subject to the objection that there was no signature of the indorsement remaining open for argument (*n*). After the revising barrister has signed and dated the indorsement he must deliver the statement with the indorsement thereon to the appellant, and must also deliver a copy to the respondent requiring it (*o*).

If it appear to the revising barrister that the validity of any number of claims or objections determined by him depends and has been decided by him upon the same point or points of law, and the parties aggrieved or dissatisfied, or any of them, give notice of intention to appeal, the barrister may declare that the appeals ought to be consolidated, and must state in writing the case and his decision thereon, in the same manner as in the case of a single appeal, and also that several appeals depend on the same decision and ought to be consolidated (*p*). The revising barrister ought not to consolidate any case with any other case, unless they depend and have been decided by him upon the same

(*k*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 43.

(*l*) *Wanklyn v. Woollett* (1847), 4 C. B. 86; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6 (2).

(*m*) *Nettleton v. Burrell* (1844), 7 M. & G. 35.

(*n*) See *Wanklyn v. Woollett* (1847), 4 C. B. 86, and *Pring v. Estcourt* (1847), 4 C. B. 71.

(*o*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 42.

(*p*) *Ibid.*, s. 44.

point or points of law, so that the decision in any one of them would govern any other (*q*).

The revising barrister must submit the statement to the appellant, and sign it in the same manner as in the case of a single appeal, and may name any person interested and consenting, for and on behalf of himself and all other persons in like manner interested in such appeals, to be the appellant or respondent respectively in such consolidated appeal, and to prosecute or answer the same in like manner as any appellant or respondent might in his own case (*r*). The person so named as appellant, or some one on his behalf, must at the end of the statement make and sign a declaration in the form or to the effect following, that is to say :—

“ I, for myself and on behalf of all the other persons who are interested as appellants in this matter, and whose names are hereunder written, do appeal against this decision, and agree to prosecute this appeal.”

And the person so named as respondent, or someone else on his behalf, must in like manner make and sign a declaration in writing, in the form or to the effect following, that is to say :—

“ I, for myself and on behalf of all the other persons who are interested as respondents in this matter, and whose names are hereunder written, do agree to appear and answer this appeal.” (*r*)

Notwithstanding that the language of this section authorizes some person on behalf of the representative appellant or respondent to make and sign these declarations, it would seem from the form of the declarations that such person making and signing them on behalf of the representative appellant or respondent should not make and sign the declaration in his own name, as agent for the representative appellant or respondent, unless he himself is also a party interested in like manner, but should make and sign it in the name of the representative appellant or respondent, subjoining his own signature per procurator, after signing the name of the representative appellant or respondent (*s*). In the absence of the necessary declaration by the respondent the court cannot hear the appeal as a consolidated appeal, but may hear it as a single appeal (*t*).

(*q*) See *Prior v. Waring* (1847), 5 C. B. 56; *Robson v. Brown* (1856), 1 C. B. (N.S.) 34; *Bennett v. Brumfit*; *Ashcroft's case* (1868), L. R. 4 C. P. 399, n.

(*r*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 44.

(*s*) See *Wanklyn v. Woollett* (1847), 4 C. B. 86.

*Druitt v. Law* (1882), Celt. 307.

The revising barrister, if necessary, may in any case name the overseers of any parish or township, or the town clerk of any city or borough, as respondents in a consolidated appeal, without any such declaration being made or signed by him or them as above mentioned (*u*).

The name and, where necessary, the particulars of the qualification of every party intended to be joined in the consolidated appeal, ought to be written under the declaration of the appellant or respondent to which they may refer respectively (*v*). But it is not necessary that they should also appear by the indorsement, provided the name of the representative appellant or respondent appears by the indorsement, and the names and, where necessary, the qualifications of every party intended to be joined, appear by the statement of the cases (*x*).

Consolidated appeals should be conducted like single appeals (*a*). If any consolidated appeal is not duly prosecuted or answered, the High Court of Justice (Queen's Bench Division), or any judge thereof, including the Lord Chief Justice of England, may give to any party or parties interested in such appeal, upon his or their application, the conduct and direction of the appeal, or of the the answer, instead of or in addition to any person named as appellant or respondent, in such manner and upon such terms as the court or judge may think fit, or may make such other order in the case as may seem meet (*y*).

There does not appear to be any reported instance of such an application having been made. Probably it should be made by summons before a judge in chambers (not *ex parte*), and upon affidavit as to the facts (*z*).

If, after the revising barrister has declared that the appeal in any case ought to be consolidated with others, any party interested in such appeal object or refuse to be a party to or to be bound by any such consolidated appeal, the appeal in which such person is interested may proceed separately, but such person so refusing or objecting is liable to pay costs to the other party, and is not entitled to receive any costs of or in such appeal, unless the court otherwise order (*a*). Every order, judgment, or decision of the High Court in a consolidated appeal is binding and conclusive on

(*u*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 44.

(*v*) *Shewin v. Whymman* (1873), L. R. 9 C. P. 243.

(*y*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 45, as altered by the Judicature Acts.

(*z*) *Cp.* R. S. C., Order XVI. r. 39; *Re MacRae* (1883), 25 Ch. D. 16.

(*a*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 45.



all parties (*a*), subject, of course, to appeal by special leave to the Court of Appeal.

**(6) Rule to state case.**—If the revising barrister refuse or neglect to state a case, the person aggrieved may, within one month after such neglect or refusal, apply to the High Court of Justice (Queen's Bench Division), for a rule calling on the revising barrister, and also on the person (if any) in whose favour the decision from which the applicant desires to appeal was given, to show cause why a rule should not be made directing the appeal to be entertained, and the case to be stated (*b*).

An application of this kind should be made by summons before a judge in chambers upon affidavit of the facts, and may be made *ex parte*. It may be made in vacation (*c*). The judge may thereupon grant a rule to show cause (*d*). But this will probably not be granted unless there has been a written notice of intention to appeal given to the revising barrister, in accordance with section 43 of the Parliamentary Registration Act, 1843 (*e*).

The judge may even make the rule absolute in the first instance, or he may adjourn the application into court (*f*). If a rule is granted, the parties against whom it is granted must show cause before a Divisional Court. Ordinary parties must show cause by affidavit in the usual way. The revising barrister may make a statement not upon oath, or an affidavit, according to the circumstances of the case (*g*).

The court may at the hearing make the rule absolute, or may discharge it, with or without payment of costs, as seems just. If the application for the rule *nisi* is not made within a month after the neglect or refusal of the revising barrister to state a case, the rule will be discharged with costs (*h*). If the court make the rule absolute, the revising barrister on being served therewith must state the case accordingly, and the case must be stated and the appeal entertained and heard, notwithstanding any limitations of time or place contained in the Parliamentary Registration Act, 1843 (*e*).

**(7) Preliminaries to hearing.**—Except in the case of an appeal where the case has been stated in obedience to a rule of

(*b*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 37.

(*c*) As in *Reg. v. McConnell* (1894), 1 Fox & Smith, at p. 376.

(*d*) As in *In re Sale* (1880), 50 L. J. C. P. 113.

(*e*) 6 & 7 Vict. c. 18. See *In re Bane*, W. N. (1879), p. 200.

(*f*) As in *In re Bane*, above cited.

(*g*) See *In re Bane* and *In re Sale*, above cited: *Reg. v. McKear* (1892), 1 Fox & Smith, 275.

(*h*) *In re Bane*, above cited.

the High Court, or where the High Court has given the conduct of a consolidated appeal to some other than the person originally named as the representative appellant or respondent, as the case may be, the regular course of procedure is for the appellant to send to the Central Office of the Supreme Court of Judicature, within the first four days of the Michaelmas sittings next after the decision to which the appeal relates :

- (a.) The case properly signed and indorsed by the revising barrister, and
- (b.) A notice signed by the appellant himself, stating his intention to prosecute the appeal (*k*), and three printed copies of the case for the use of the judges (*l*).

On receipt of the case and notice, properly signed and in due time, one of the Masters of the Supreme Court, nominated for

(*k*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 62, as altered by the Judicature Acts. The Michaelmas sittings of the High Court of Justice commence on October 24th : Order in Council, December 12th, 1883.

(*l*) R. S. C., Order XXXIV, r. 3 ; and Order LIX, r. 1. According to the practice of the old Court of Common Pleas, it was necessary to deliver to the judges' clerks, for the use of the judges on the hearing, four clear days at least before the day appointed for the argument of the appeal, paper books containing copies of the case and exhibits, the appellant delivering the books for the use of the two senior judges, and the respondent for the two junior. In default by either party, the other party might, on the day following, deliver the books for him ; and the party making default was not to be heard until he had either paid for the books or deposited in court a sufficient sum to pay for them ; Reg. Gen. Hil. Term 4, r. 7 ; *Cooper v. Coates* (1844), 5 M. & G. 98. The court might, however, as an indulgence, permit the books to be delivered, *nunc pro tunc*, at some later time before the day appointed for the argument, if a reasonable explanation were offered to justify a departure from the ordinary course, as, for instance, if there had not been sufficient time to prepare the books for due delivery, and time remained for the perusal of them before the case came on. In such cases the proper practice was to make application to the court by motion, supported by affidavit setting forth the facts in excuse of delay, for leave to deliver the books *nunc pro tunc*. In *Croucher v. Browne*, the notice as to the hearing of appeals was given late in the afternoon of Friday, November 7th, naming Thursday, 13th, as the first day for hearing the appeals ; an application for leave to deliver the books on November 11th, *nunc pro tunc*, was granted by the court : *Croucher v. Browne* (1845), 1 Lutw. R. C. 303. The like indulgence was granted to the appellants in *Elliott v. The Overseers of St. Mary-within-Carlisle* (1846), 1 Lutw. R. C. 508 ; *Busher v. Thompson* (1846), 1 Lutw. R. C. 509 ; and to the respondent, *Nicks v. Field* (1846), 1 Lutw. R. C. 509 n. In *Palmer v. Allen*, decided in 1847, it was shown by affidavit that the country attorney conducting the case on behalf of the appellant had relinquished the management of his business in London to an agent on the first day of term ; and that each of them had erroneously supposed the paper books to have been duly delivered by the other of them. The case not having been reached, the court thought the excuse assigned might reasonably be allowed to prevail, and permitted the books to be delivered ; *Palmer v. Allen* (1847), 5 C. B. 1. But ignorance of the practice was held no excuse ; *per* WILDE, C.J., in *Palmer v. Allen*. Although when the practice was not so well known, it was sometimes admitted as an excuse : *Colvill v. Lewis* (1846), 2 C. B. 60.

that purpose by the Lord Chief Justice of England, must forthwith enter the appeal in a book to be kept by him for that purpose (*m*). The Master is not bound to enter the appeal unless the case and notice, properly signed, have reached the Central Office in due time (*n*).

A court or courts must sit forthwith after the fourth day of the Michaelmas sittings for the purpose of hearing such appeals, and those appeals must be heard and determined continuously and without delay (*o*).

If there has been no completed appeal, as if the appellant has not given notice of appeal in the revising barrister's court, or the revising barrister did not state the case or his decision, or submit the statement to the appellant or indorse or sign it as required by section 42 of the Parliamentary Registration Act, 1843 (*p*), as amended by section 6 of the County Electors Act, 1888 (*q*), the respondent may make application to have the case struck out of the list.

The application must be made by motion, supported by affidavit of the facts on which the respondent relies. The usual notice of motion must be given to the appellant. On the hearing of the motion the court will order the case to be struck out of the list if it appear that there has been no completed appeal (*r*).

In addition to the notice required to be given by him to the Central Office, the appellant must also within a reasonable time (*s*) give to the respondent a notice, signed by him, of his intention to prosecute the appeal (*t*). This notice must be given to the respondent ten clear days at least before the first day appointed for the hearing of the appeal, exclusive of the day of the service of such notice on the respondent, and exclusive of the first day appointed for the hearing of the appeal (*u*). But if by reason of the lateness of the period at which the decision of the revising barrister was pronounced, it appears to the court that there was not reasonable time for the appellant literally to comply with the

(*m*) See note (*k*), p. 374. (*n*) *Petherbridge v. Ash* (1846), 4 C. B. 74.

(*o*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6 (2).

(*p*) 6 & 7 Vict. c. 18.

(*q*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6 (2).

(*r*) *Scott v. Durant* (1865), 18 C. B. (N.S.) 205. Alternatively the point that there is no completed appeal may be taken at the hearing by way of preliminary objection, as in *Guisse v. Dilke* (1892), 1 Fox & Smith, 283.

(*s*) *Pring v. Estcourt* (1846), 4 C. B. 73.

(*t*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 62.

(*u*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 64. *Norton v. The Town Clerk of Salisbury* (1846), 4 C. B. 32; *Adley v. Hill* (1846), 4 C. B. 38; *Clarke v. Beaton* (1847), 5 C. B. 76.

statute, and to give ten clear days' notice, the court has power under the proviso to section 64 to postpone the hearing of the appeal. For instance, in *Palmer v. Allen*, in 1847, it appeared that the decision of the revising barrister was pronounced on Saturday, October 30th, and the appellant's attorney immediately on leaving the court prepared a notice of the appellant's intention to prosecute the appeal, and sent his clerk to get it signed; but the appellant having then left the place where the decision was pronounced, and being absent from home during the following Monday, the clerk was unable to meet with him until seven o'clock on the Tuesday morning, November 2nd. And the first day appointed for the hearing of the appeals was November 11th. And it further appeared that the notice of intention to prosecute the appeal was served on the respondent personally by eight o'clock on the morning of November 2nd. The court held that there had not been reasonable time for the appellant to give the notice required by the statute to be served on the respondent, and therefore that the case fell within the proviso to section 64, and they adjourned the hearing (*x*). But the question whether there has been reasonable time to give or send notice of an intention to prosecute an appeal must be calculated only with regard to the period at which the decision of the revising barrister was pronounced. It makes no difference if there has not been time to give ten clear days' notice between the first day fixed for the hearing of the appeals and the time within which the case must be entered for hearing. The court have no power in such case to adjourn the hearing. For instance, in *Lockett v. Gilder*, in 1861, the first day fixed for hearing the appeals was November 11th, and the decision of the revising barrister had been pronounced on October 11th, and no notice of intention to prosecute the appeal had been served until the last day for entering the appeal for hearing, viz., November 6th. The court refused to adjourn the hearing, and the appeal consequently dropped. But the court intimated that another time the first day for hearing the appeals would not again be fixed within ten clear days from the last day on which cases could be entered for hearing (*y*).

**(8) Hearing and judgment.**—The appeals are heard before a Divisional Court (*z*). When the case is called on, if it appear that

(*x*) *Palmer v. Allen* (1847), 5 C. B. 5. Note that the first day appointed for hearing these appeals is now fixed by s. 6 of the County Electors Act, 1888 (51 & 52 Vict. c. 19), to be October 28th.

(*y*) *Lockett v. Gilder* (1861), 11 C. B. (N.S.) 1, and see also last preceding note.

(*z*) Rules of the Supreme Court, Order LIX. r. 1 (*b*).



notice to the Central Office has not been given in due time, the court has no jurisdiction to entertain the appeal (*a*). It is upon the giving of the notice to the Central Office, properly signed, and in due time, and not upon the delivery of the case, that the jurisdiction of the court depends. It is not sufficient, therefore, that the case should have reached the Central Office, properly signed, and in due time, if the notice was not sent therewith (*b*). So that if the notice does not reach the Central Office properly signed, and in due time, the consent of the parties that the appeal should be heard notwithstanding is immaterial, and the court will not entertain the appeal (*c*).

The court has no jurisdiction to hear an appeal where the revising barrister has consolidated cases not depending or decided by him upon the same point or points of law; and if it appear that several cases have been consolidated which could not all be governed by the decision upon any one of them, the appeal will be struck out (*d*).

Under the old practice in the Court of Common Pleas (*e*), if, when the case was called on, it appeared that no paper books for the use of the judges had been delivered by either party, the case was struck out (*f*); or if either party had omitted to deliver paper books for the two judges for whose use they should have been supplied by him, and the other party had not on the day following that on which the books should have been so supplied, or by leave of the court at some later time, remedied the omission, the case would have been struck out (*g*). Whether the court would apply these cases to modern practice is doubtful.

If neither party appears when the case is called on, the court will order the case to be struck out, and will not permit it to be restored without sufficient reason being given for the non-appearance of the parties when the case was called on (*h*).

Only one counsel will be heard on each side, in accordance with the practice with respect to special cases from the sessions (*i*).

(*a*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 64.

(*b*) *Simpson v. Wilkinson* (1843), 5 M. & G. 3 n.

(*c*) *Autey v. Topham* (1843), 5 M. & G. 1.

(*d*) *Prior v. Waring* (1847), 5 C. B. 56; *Robson v. Brown* (1856), 1 C. B. (N.S.) 34; *Bennett v. Brumfitt*, *Ashcroft's case* (1868), L. R. 4 C. 1. 399 n.

(*e*) *Ante*, p. 374, note (*l*).

(*f*) *Jessop v. The Town Clerk of Ipswich* (1863), Hopw. & Phil. 23.

(*g*) *Sheddon v. Butt*, (1851), 11 C. B. 27.

(*h*) *Wausley v. The Overseers of St. Peter-le-Poer, London* (1845), 7 M. & G. 162.

(*i*) *Gadsby v. Warburton* (1844), 7 M. & G. 13 n.

When the case is called on, if the appellant appear but the respondent does not appear, the court will not give judgment for the appellant without an argument, but will, as a general rule, require an argument from the appellant on his behalf, and will give judgment as they may be advised (*k*). In *Powell v. Caswell*, decided in 1849, it seems that the court did give judgment in favour of the appellant, the respondent not appearing, without calling upon the appellant for an argument in his behalf (*l*). But it must be assumed that the court there read the case, and thought it clear that the decision of the revising barrister was wrong (*m*).

If the respondent does not appear, and the case is not signed by the revising barrister, although the indorsement thereon is signed by him, the court will not hear the appellant, and the case will be struck out (*n*).

In every case where the respondent does not appear, the appellant must show by affidavit that a proper notice of appeal was duly served upon the respondent ten clear days at least before the first day appointed for the hearing of the appeals (*o*). This is one of the conditions without which the appellant is not entitled to be heard when the respondent does not appear, and unless it has been done the appellant has no *locus standi* (*p*). In *Brumfitt v. Roberts*, decided in 1870, all the persons except one named as respondents by the revising barrister, on the understanding that they were the overseers of the parish, turned out not to be the overseers, and the revising barrister declined to amend the case, but the appellant served a proper notice of appeal upon the real overseers, as well as upon the persons named as respondents. None of the respondents appeared, and upon proof of service of such notices the court held that the appellant was entitled to be heard (*q*). The court will not hear the appellant even if the respondent agreed to waive service of the notice upon him. But upon proof of such waiver the court did, in one case, postpone the hearing of the appeal for notice to be served upon the respondent, on the ground that the appellant had been lulled into

(*k*) *Cooper v. Harris* (1845), M. & G. 97; *Colvill v. Lewis* (1846), 2 C. B. 60; *Colvill v. Wood* (1846), 2 C. B. 210; *For v. Davies* (1848), 6 C. B. 11; *Pownall v. Hood* (1851), 11 C. B. 1.

(*l*) *Powell v. Caswell* (1849), 8 C. B. 14. *Cp. Reg. v. Flowers* (1886), 16 Q. B. D. 643.

(*m*) *Per MAULE, J.*, 8 C. B. 15.

(*n*) *Burton v. Blake* (1851), 11 C. B. 47.

(*o*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18) ss. 62, 64.

(*p*) *Clarke v. Beaton* (1847), 5 C. B. 76.

(*q*) *Brumfitt v. Roberts* (1870), L. R. 5 C. P. 224 n.

security by the supposed waiver (*r*). This case, however, is a doubtful precedent, for the power of the court to postpone the hearing depends upon the Act, and the Act gives them no express power to postpone the hearing on the ground that the appellant has been induced to disregard its provisions by the conduct of the respondent. But if it appear to the court that there has not been reasonable time to give or send such notice in any case, the court may postpone the hearing of the appeal as they may think fit (*s*). The facts showing that there has not been reasonable time to give such notice must appear by affidavit (*t*). In *Palmer v. Allen*, decided in 1847, the court thought there had not been reasonable time to give such notice, because the case was not finally settled by the revising barrister until October 30th and the first day appointed for the hearing of the appeals was November 11th (*y*). But in *Brown v. Tamplin*, decided in 1872, where the case was finally settled by the revising barrister on October 31st and the first day appointed for the hearing of the appeals was November 13th, the court thought there had been reasonable time to give such notice, and ordered the appeal to be struck out (*z*). If the court should be of opinion that there has not been reasonable time to give such notice, the usual course is to postpone the hearing for ten clear days to permit of notice being given. If the court has heard the argument for the appellant, and it appears after argument that there is no affidavit of service, or of facts showing that there was not reasonable time to give the proper notice, the court may suspend judgment for an affidavit to be produced, and will give judgment if it appear that the appellant had in fact served a proper notice on the respondent and had a *locus standi* (*a*), otherwise the case will be struck out and no judgment given.

In a case where the question is of great importance, the court may, if it consider it not to be desirable to decide without hearing counsel on both sides, communicate with the Attorney-General and request him to cause some one to be instructed to argue the case on the respondent's behalf (*b*).

If the respondent appears, but the appellant does not appear,

(*r*) *Newton v. The Overseers of Mobberley* (1846), 2 C. B. 203.

(*s*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18) s. 64.

(*t*) *Aldworth v. Dore* (1848), 5 C. B. 87.

(*y*) *Palmer v. Allen* (1847,) 5 C. B. 5; see *ante*, p. 376, note (*x*).

(*z*) *Brown v. Tamplin* (1872), L. R. 8 C. P. 241.

(*a*) *Colrill v. Lewis* (1846), 2 C. B. 60.

(*b*) *Pickard v. Baylis* (1879), 5 C. P. D. 235.

upon the cases as reported by the majority of reporters, it would seem that the respondent is entitled to judgment without an argument on his behalf (*c*).

If both parties appear the appellant has the right to begin, for the appeal is not like a case from the sessions, where the party who seeks to set aside the order of the justices is in the situation of a party showing cause against a rule, but it is more in the nature of an appeal to the Privy Council, where the appellant always begins (*d*).

The respondent appearing cannot object to the appellant being heard on the ground that proper notice of intention to prosecute the appeal was not given to him. If he elects to appear there is no necessity for proving the service of the notice; if he does not appear the court will deal with the case as above described (*e*).

If both parties appear, and the respondent admit that he cannot support the decision of the revising barrister, the appeal will be allowed without argument (*f*).

In *Burton v. Brooks*, decided in 1851, where both parties appeared, but the revising barrister had omitted to sign the case, although he had indorsed it properly and signed and dated the indorsement, and the appeal had been entered in due time, the court doubted whether it had jurisdiction to hear the appeal; but the respondent consenting that the case should be signed *nunc pro tunc*, the court permitted the argument to proceed on the assumption that it was already signed (*g*). In the case of *Wanklyn v. Woollett*, decided in 1847, the indorsement had not been signed by the revising barrister before the expiration of the time for entering the appeal, and the appeal had been allowed to

(*c*) *White v. Pring* (1849), 8 C. B. 13. So also *Bay v. Perkins* (1845), 7 M. & G. 156; *Crocker v. The Overseers of St. Mary, Lambeth* (1845), 7 M. & G. 156 n. But in the report of these two latter cases in 8 Scott N. R. 983, 985, it is suggested that the decisions were affirmed without argument because the cases involved the same point as *Wansey v. Perkins*, *Hill's case*, decided after argument on both sides on the same day just previously (8 Scott N. R. 978). And it is suggested that in the case of *White v. Pring* it may be assumed that the court read the case and thought it too clear for argument (Saint R. C. ed. 3, 477 note (*a*), citing MALLE, J., in 8 C. B. 15, with reference to *Powell v. Caswell*, 8 C. B. 14).

(*d*) *Webb v. The Overseers of Aston near Birmingham* (1843), 5 M. & G. 14.

(*e*) *Ante*, p. 378. *Rawlins v. The Overseers of West Derby* (1846), 2 C. B. 72. See also *Palmer v. Allen* (1847), 5 C. B. 7. But under the old practice in the Court of Common Pleas the making by the respondent of an application for leave to deliver the paper books was not deemed to be such an appearance as to dispense with proof by the appellant of the service of a proper notice upon the respondent. *Greaser v. Bontems* (1846), 4 C. B. 70.

(*f*) *Jarvis v. Peel* (1851), 11 C. B. 15.

(*g*) *Burton v. Brooks* (1851), 11 C. B. 41.



be entered subject to the objection, but the court held that they had no jurisdiction to entertain the appeal (*h*). So also in the Irish case of *Agnew v. Fowler*, decided in 1851, both parties appeared, and the revising barrister, although he had signed the case, had not signed it before the expiration of the time for holding the court of revision, and the court held, upon preliminary objection, that they had no jurisdiction to entertain the appeal (*i*).

The judgment of BRETT, J., in *Sherwin v. Whyman* (*k*), contains dicta, not necessary to the decision in that case, strongly in favour of the view that the court has no jurisdiction to hear any appeal unless the case and indorsement have been signed by the revising barrister in open court before the time during which he must have held his court had expired. The Irish Court of Appeal, however, have taken the contrary view in a peculiar case, where the case and indorsement might have been signed in due time, but were not owing to an agreement by all parties that it might be done later (*l*).

This question, however, cannot now arise in England, because section 6 of the County Electors Act, 1888, provides that the statement may be made at any time within ten days of the conclusion of the revision, so that it be made not less than four days before the first day of the Michaelmas sittings next after the decision to which the appeal relates, and the statement need not be read in open court (*m*).

The court will not hear the appellant in support of an objection not taken before the revising barrister (*n*), or in support of an objection taken before the revising barrister upon which he has not reserved a point of law for the decision of the court (*o*), or upon a point not reserved for the decision of the court, where the revising barrister has expunged the name of the appellant without any objection made to its being retained (*p*). Probably the court will not hear the respondent upon any point not reserved for their decision. It is doubtful whether they ought to hear the respondent upon points which the revising barrister has decided in favour of

(*h*) *Wanklyn v. Woollett* (1847), 4 C. B. 86.

(*i*) *Agnew v. Fowler* (1851), 1 Ir. C. L. 462.

(*k*) L. R. 9 C. P. at p. 247 (1873).

(*l*) *Topham v. Kellcher* (1879), 6 L. R. Ir. 285. The dicta of BRETT, J., in *Sherwin v. Whyman* were not cited in this case.

(*m*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6 (2).

(*n*) *Simpson v. Wilkinson* (1844), 7 M. & G. 50; *Nunn v. Denton* (1844), 7 M. & G. 66.

(*o*) *Ashmore v. Lees* (1845), 2 C. B. 31.

(*p*) *Gregory v. Turner* (1868), 1 Hopw. & Colt. 43.

the appellant, and has, notwithstanding, stated for the opinion of the court, as well as the points which he has decided against the appellant, and in respect of which the appellant is dissatisfied with his decision (*q*).

(9) **Remitting case for further statement.**—The court may remit the case to the revising barrister to state facts only, if he has stated, not facts, but the evidence by which it was sought to establish the facts before him (*r*). If, upon the facts as stated, the case is not sufficient to enable the court to give judgment in law, the court may remit it to the revising barrister to supply such additional facts as the court may think necessary for that purpose (*s*). When a case is remitted, the practice is for the case to be handed by the Master to the solicitor for the appellant, with a memorandum of the facts required to be supplied. The solicitor for the appellant then forwards the case and memorandum to the revising barrister, who returns it to him after supplying the facts required from his notes of the evidence. The solicitor then forwards it to the Master as amended by the revising barrister (*t*). Or if the revising barrister be then and there in court when the court comes to that decision, the case may be then and there handed to him to make the necessary alterations, or to supply facts from his notes of the evidence if he has them with him. But the court cannot allow alterations to be made in the case or facts to be supplied by consent by the admission of the parties without remitting the case to the revising barrister (*u*). But if the revising barrister has stated all the facts which in his judgment are material, and the case as stated is sufficient to enable the court to give judgment in law, the court has no power to remit the case to him to state an omitted fact which in his judgment is immaterial, although any or all of the parties may consider such fact to be material (*x*). In *Hutchins v. Brown*, a consolidated appeal decided in 1845, the revising barrister had not stated the

(*q*) *West v. Robson* (1857), 3 C. B. (N.S.) 422.

(*r*) *Pitts v. Smalley* (1845), 7 M. & G. 85.

(*s*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 65. In the Irish case of *Brown v. Buchanan*, [1894] 2 I. R. at p. 337, BARRY, L.J., quotes with approval the judgment of FITZGERBON, L.J., in *Simpson v. Hourahan* (Lawson's Notes, 1892–1893, p. 10): "We have no business whatever to find facts. I am sorry that the habit has sprung up in England and here of leaving it to the court, and the court has drawn inferences of fact."

(*t*) See BARR. & ARN. on p. 716, head-note to *Coogan v. Luckett*, and the cases of *Webb v. Aston* and *Whithorn v. Thomas*, cited below.

(*u*) *Webb v. The Overseers of Aston* (1843), 5 M. & G. 14; *Whithorn v. Thomas* (1844), 7 M. & G. 1.

(*x*) *Hinton v. The Town Clerk of Wendock* (1844), 7 M. & G. 166 n.

names and particulars of the qualification of every party intended to be joined, but had stated that the validity of their claims depended upon the same point of law, which occurred in the case of one party whose name and the particulars of whose qualification were fully stated. The court held that the case, as stated, was sufficient to enable them to give judgment in law thereon, and that they had, therefore, no power to remit it to the revising barrister to set out the qualifications of the other persons whose cases were consolidated with that of the person whose qualification was fully stated (*y*). But where several cases not depending upon the same point or points of law, so that the decision in any one of them would not govern any other, have been improperly consolidated, it cannot be said that the case is insufficiently stated so as to enable the court to remit it to the revising barrister under section 65 (*z*).

**(10) Costs.**—The costs of an appeal are in the discretion of the court, and the court may make such order respecting the payment of the costs, or any part of them, as they may think fit, except where the respondent does not appear, in which case the court may not make any order for costs against him or in his favour (*a*). But if the respondent is the clerk of the peace or town clerk, the court may, if the appeal be successful, order the costs to be paid by him whether he appears or not (*b*). The court, however, cannot order the costs of an unsuccessful appellant to be paid by the clerk of the peace or town clerk (*c*).

Any agreement between all or any of the parties to a consolidated appeal as to the mode of contributing among themselves to the costs and expenses of the appeal may, if the court think fit, be made a rule of court upon the application of any of the parties to such agreement (*d*). And any person improperly refusing or objecting to be a party to or be bound by a consolidated appeal may be ordered to pay costs, but is not entitled to any costs of his own separate appeal (*d*), unless the court otherwise order.

Where the court has no jurisdiction to hear an appeal, it seems that they have no jurisdiction as to costs. Nothing appears to

(*y*) *Hutchins v. Brown* (1845), 1 Lutw. R. C. 328.

(*z*) *Prior v. Waring* (1847), 5 C. B. 56, 63.

(*a*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 70. *Lowcock v. The Overseers of Broughton* (1883), 12 Q. B. D. 369.

(*b*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 38. See *ante*, pp. 364, 369; *Nuth v. Tamplin* (1881), 8 Q. B. D. p. 258 n.

(*c*) *Alexander v. Burke* (*Mount Arvis case*) (1887), 22 L. R. Ir. 458; *Burnett v. Hickmott* (1895), 1 Fox & Smith, 425.

(*d*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 45.

have been said about costs in any case which the court ordered to be struck out for want of jurisdiction.

Where the court has entertained appeals, both parties appearing, the practice as to costs appears to have been that where the decision was in favour of the appellant, the revising barrister's decision being reversed, no costs were allowed (*c*). But where the decision was in favour of the respondent, the revising barrister's decision being affirmed, as a general rule the respondent was allowed his costs (*f*), especially where the respondent's claim to the franchise was established by the decision (*g*). Where by reason of the court being equally divided the appeal drops and the revising barrister's decision in favour of the respondent stands, there will be no costs (*h*). So also where after the case had been remitted to the revising barrister the appellant abandoned the appeal, the court refused to allow the respondent costs (*i*). And

(*c*) *Capell v. The Overseers of Aston* (1849), 2 Lutw. R. C. 158; *Lee v. Hutchinson* (1850), 2 Lutw. R. C. 169; *Barclay v. Parrott* (1856), 1 C. B. (N.S.) 52; *Smith v. Huggitt* (1861), K. & G. 447; *Hoels v. Blain* (1864), 18 C. B. (N.S.) 110; *Beal v. Ford* (1877), 3 C. P. D. 80; *Smith v. Woolston* (1878), 4 C. P. D. 79; *James v. Howarth* (1879), 5 C. P. D. 231; *Lord v. Fox* (1891), 1 Fox & Smith, 274. But in such a case, if the town clerk is made a respondent against his will on the application of the appellant, he ought to have his costs; *Foster v. Medwin* (1880), 5 C. P. D. 87. And in one report of a recent case where the appeal was successful, the decision of the revising barrister being reversed, GRANTHAM, J., as president of the court, is reported to have said "We think that in this court, as in others, the proper rule of practice is for costs to follow the event"; *Gale v. Overend* (1890), 1 Fox & Smith, at p. 185. But this is not mentioned in the other reports, nor does the attention of the court seem to have been fully drawn to the previous authorities. The rule of the Irish Court of Appeal is that, unless otherwise ordered, where the appellant succeeds his costs are to be paid: (1) voter appellant, by personal respondent in first instance, in default by clerk of the peace; (2) claimant appellant, by clerk of the peace; (3) objector appellant, by clerk of the peace. Clerk of the peace in all cases where his own costs or those of any other party are ordered to be paid by him, to have them out of the rates. (Lawson's Notes, 348).

(*f*) See *per* ERLE, C.J., in *Baker v. Locke*, and *Powell v. Bradley* (1864), 18 C. B. (N.S.) 64, 71. Unless otherwise ordered, the rule of the Irish Court of Appeal, where the appellant fails is: (1) Voter appellant, no costs; (2) claimant appellant, dismiss with costs; (3) objector appellant, dismiss with costs. (Lawson's Notes, p. 348).

(*g*) See *per* WILLES, J., in *De Boinville v. Arnold* (1855), 1 C. B. (N.S.) 22. Such cases are *Birch v. Edwards* (1847), 5 C. B. 45; *Watson v. Pitt* (1847), 5 C. B. 77; *Mashiter v. Dunn* (1848), 6 C. B. 30; *Beamish v. Stoke* (1851), 11 C. B. 29; *Collins v. Thomas* (1852), 12 C. B. 639; *Beeson v. Burton* (1852), 12 C. B. 647; *Passingham v. Pitty* (1855), 17 C. B. 299; *De Boinville v. Arnold* (1855), 1 C. B. (N.S.) 3; *Powell v. Bradley* (1864), 18 C. B. (N.S.) 65. The rule of the Irish Court of Appeal is in accordance with this practice. (Lawson's Notes, p. 348).

(*h*) *Thompson v. Ward* (1871), L. R. 6 C. P. 327; *Boon v. Howard* (1874), L. R. 9 C. P. 310.

(*i*) *Lowe v. Maillard* (1869), L. R. 4 C. P. 547.



the court may in any case, where their decision is in favour of the respondent, consider that the circumstances are such as to take the case out of the general rule, *e.g.*, if the court invited an argument and caused counsel to be instructed for the respondent who did not appear when the case was called on (*k*), or where the revising barrister encouraged the appellant (*l*), or if the question was fairly arguable (*m*), or the case was one of some doubt (*n*), especially where the court decides adversely to the franchise (*o*), or if the respondent would not have succeeded in obtaining the franchise had objection been taken on the right ground before the revising barrister (*p*), or if the court decides in the respondent's favour in deference to an authority with which they do not agree (*q*).

**(11) Correction of Register.**—Whenever the decision of the revising barrister is reversed by the judgment of the court so as to require any alteration of the register or burgess roll, the master must immediately give notice in writing to the sheriff or returning officer having the custody of the register, or the town clerk having the custody of the burgess roll, specifying exactly every alteration or correction to be made in the register or burgess roll in pursuance of the judgment or order of the court; and the sheriff, or returning officer, or town clerk, as the case may be, must upon receipt of this notice make the specified alteration or correction, and must safely keep, and hand over to his successor, every such notice together with the register or burgess roll (*r*). But there is no necessity for any formal order of the Court directing the sheriff, or returning officer, or town clerk, as the case may be, to make the necessary correction or alteration (*s*).

Except upon an appeal the court has no jurisdiction to alter or correct the register (*t*), and cannot grant a rule for a *mandamus*

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(*k*) *Pickard v. Baylis* (1879), 5 C. P. D. 247.

(*l*) *Ford v. Boon* (1871), L. R. 7 C. P. 158.

(*m*) *Simpson v. Wilkinson* (1844), 7 M. & G. 65; *Flatcher v. Boodle* (1865), 18 C. B. (N.S.) 168; *Mann v. Johnson* (1894), 1 Fox & Smith, 356.

(*n*) *Webb v. The Overseers of Aston near Birmingham* (1843), 5 M. & G. 32; *Collier v. King* (1862), 11 C. B. (N.S.) 478; *Sherlock v. Steward* (1859), 7 C. B. (N.S.) 28; *Tepper v. Nicholls* (1864), 18 C. B. (N.S.) 141.

(*o*) *Clark v. The Overseers of Bury St. Edmunds* (1856), 1 C. B. (N.S.) 33; *Copland v. Bartlett* (1848), 6 C. B. 29.

(*p*) *Jones v. Pritchard* (1891), 1 Fox & Smith, 265.

(*q*) *Kemp v. Wanklyn* (1894), 1 Fox & Smith, 366.

(*r*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 67. Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 35.

(*s*) *Whitmore v. Bedford* (1843), 5 M. & G. 9.

(*t*) *Re Allen* (1859), 28 L. J. C. P. 256.

to the town clerk of a municipal borough to correct a mistake in the printing of the burgess roll after publication, as, for instance, where names have been by mistake printed in the wrong ward rolls (z).

**(12) Appeals to Court of Appeal.**—By section 66 of the Parliamentary Registration Act, 1843, every judgment or decision of the court is final and conclusive in the case upon the point of law adjudicated upon (a).

So long as the jurisdiction in registration appeals was confined to the Court of Common Pleas, that court would not refuse in a different case to reconsider a previous decision, and, if clearly satisfied that the previous decision was wrong, would overrule it (b). It was only in the same case that the court, having once decided, would refuse to reconsider its decision. But after the jurisdiction of this court had been transferred to the High Court, and the various common law divisions of the High Court merged into one, there does not appear to have been any reported case in which either the Common Pleas Division, or afterwards the Queen's Bench Division, were asked to reconsider a previous decision until the High Court ceased beyond a doubt to be the ultimate Court of Appeal from the courts of the revising barristers. This happened in 1881. In that year, by section 14 of the Supreme Court of Judicature Act, 1881, it was enacted that the jurisdiction of the High Court to decide questions of law in registration appeals shall be final and conclusive, unless in any case it shall seem fit to the High Court to give special leave to appeal to the Court of Appeal, whose decision in such case shall be final and conclusive (c). This enactment has gone far to do away with the reasons for the High Court reviewing previous decisions not being decisions of the Court of Appeal or recognized for law by the Court of Appeal. And in the case of *Ford v. Hoar*, the late Lord Chief Justice of England (Lord COLERIDGE, C.J.), expressed an opinion that the High Court ought now to adhere to such previous decisions, leaving them to be corrected by the Court of Appeal (d). This was the course pursued accordingly in *Kemp v. Wanklyn* (e). The

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(z) *Re the Town Clerk of Eastbourne, Ex parte Kay* (1891), 66 L. T. 323.

(a) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 66.

(b) See *Webster v. The Overseers of Ashton-under-Lyne, Hadfield's case* (1873), L. R. 8 C. P. 306.

(c) Supreme Court of Judicature Act, 1881 (44 & 45 Vict. c. 68), s. 14.

(d) See *Ford v. Hoar* (1884), 14 Q. B. D. 514.

(e) *Kemp v. Wanklyn*, [1894] 1 Q. B. 265.

Court of Appeal will probably review its own decisions upon the principles laid down in *Webster v. The Overseers of Ashton-under-Lyne*; *Hadfield's case*, above cited. These principles have also been recognized in the Irish Court of Appeal in the dissenting judgments of BARRY, L.J., in *Hasson v. Chambers* (*f*), and of FITZGIBBON, L.J., in *Brown v. Buchanan* (*g*).

The High Court have given leave to appeal since the passing of the Supreme Court of Judicature Act, 1881, in the cases of *Bradley v. Baylis* (1881) (*h*), in which case the grounds for giving leave appear to have been general; in *Nuth v. Tamplin* (1881) (*i*), where the ground appears to have been that some dicta in *Pickard v. Baylis* (1879) (*k*) were overruled by the court; in *Ancketill v. Baylis* (1883) (*l*), where the ground appears to have been that the court decided apparently contrary to a dictum of BRETT, L.J., in the Court of Appeal, in *Bradley v. Baylis*, above cited; in *Ford v. Hoar* (1884) (*m*), where Lord COLERIDGE, C.J., dissented, but in that case no appeal appears to have been brought; in *Foskett v. Kaufman* (1885) (*n*), probably because of the judgment of Lord COLERIDGE, C.J., in *Ford v. Hoar*, above cited; in *Plant v. Potts* (1890) (*o*), because GRANTHAM, J., dissented; in *Kemp v. Wanklyn* (1893) (*p*), because the court decided in deference to a previous decision with which they did not agree; in *Barnett v. Hickmott* (1895) (*q*), because the attention of the court had been called to the criticism of the decision in *Stribling v. Halse* by the Irish Court of Appeal in *Hasson v. Chambers*, but the appeal was not prosecuted; in *Hart v. Beard* (1895) (*r*), apparently on general grounds, but no appeal seems to have been brought; in *Soutter v. Roderick* (1895) (*s*), apparently in consequence of the different reasons for his judgment given by VAUGHAN WILLIAMS, J., but here again no appeal seems to have been brought; in *Drax v. Ffooks* (1895) (*t*), apparently on general grounds; and in *Clutterbuck v. Taylor* (1896) (*u*), because no appeal had been brought in pursuance of the leave given in *Barnett v. Hickmott*, and it was desired to raise the questions

(*f*) (1885), 18 L. R. Ir. at p. 87.

(*g*) [1894] 2 I. R. at p. 334.

(*h*) 8 Q. B. D. 195.

(*i*) 8 Q. B. D. 247.

(*k*) 5 C. P. D. 235.

(*l*) 10 Q. B. D. 577.

(*m*) 12 Q. B. D. 507.

(*n*) 16 Q. B. D. 279.

(*o*) [1891] 1 Q. B. 256, 261.

(*p*) [1894] 1 Q. B. 265, 267.

(*q*) [1895] 1 Q. B. 691, 696.

(*r*) 2 Fox & Smith, 9, 21.

(*s*) 2 Fox & Smith, 22, 35.

(*t*) 2 Fox & Smith, 40, 48.

(*u*) 2 Fox & Smith, 59, 61.

raised by that case but not taken to the Court of Appeal. Leave to appeal was refused in *Greenway v. Bachelor* (1883), *Jacob's case* (*v*), and *Aldridge's case* (*x*), in *Stribling v. Halse* (1885) (*y*), *Smith v. Chandler* (1888) (*z*), *Sutton v. Wade* (1890) (*a*), *Brown v. Tombs* (1890) (*b*), and *Arnold v. Sharpe* (1891) (*c*).

The practice upon appeals to the Court of Appeal from the High Court is governed by the Rules of the Supreme Court.

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(*v*) 12 Q. B. D. 376.

(*x*) *Ibid.* 381.

(*y*) 16 Q. B. D. 246.

(*z*) 1 Fox & Smith, 129, 137.

(*a*) 1 Fox & Smith, 169, 184.

(*b*) [1891] 1 Q. B. 253, 255.

(*c*) 1 Fox & Smith, 252, 258.



## APPENDIX.

REFORM ACT, 1832 (*a*).

(2 &amp; 3 WILL. 4, CAP. 45.)

*An Act to amend the Representation of the People in England and Wales.* [7th June, 1832.]

WHEREAS it is expedient to take effectual measures for correcting divers abuses that have long prevailed in the choice of members to serve in the Commons House of Parliament, to deprive many inconsiderable places of the right of returning members, to grant such privilege to large, populous, and wealthy towns, to increase the number of knights of the shire, to extend the elective franchise to many of His Majesty's subjects, who have not heretofore enjoyed the same, and to diminish the expense of elections.

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, that :

1—17. [*Disfranchisement of certain boroughs, and redistribution of seats, etc.*]

18. No person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament, or in the election of a member or members to serve in any future Parliament for any city or town being a county of itself, in respect of any freehold lands or tenements whereof such person may be seised for his own life or for the life of another, or for any lives whatsoever, except such person shall be in the actual and *bonâ fide* occupation of such lands or tenements, or except the same shall have come to such person by marriage, marriage settlement, devise, or promotion to any benefice or to any office, or except the same shall be of the clear yearly value of not less than *ten pounds* (*b*) above all rents and charges (*c*) payable out of or in respect of the same ; any statute or usage to the contrary notwithstanding : Provided always, that nothing in this Act contained shall prevent any person now seised for his own life, or for the life of another, or for any lives whatsoever, of any freehold lands or tenements in respect of which he now has, or but for the passing of this Act might acquire, the right of voting in such respective elections, from retaining or acquiring, so

Limitation on the right of voting for counties and for cities or towns being counties of themselves, in respect of freeholds for life.

P. 70.

(*a*) Short title conferred by 41 & 42 Vict. c. 26, s. 4. Also entitled the Representation of the People Act, 1832, by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(*b*) Five pounds ; 30 & 31 Vict. c. 102, s. 5.

(*c*) See below, s. 21.

**Section 18.** long as he shall be so seised of the same lands or tenements, such right of voting in respect thereof, if duly registered according to the respective provisions hereinafter contained.

Right of voting  
in counties  
extended to *pol.*  
copyholders,  
P. 80.

19. Every male person of full age and not subject to any legal incapacity, who shall be seised at law or in equity of any lands or tenements of copyhold or any other tenure whatever except freehold, for his own life, or for the life of another, or for any lives whatsoever, or for any larger estate, of the clear yearly value of not less than ten pounds over and above all rents and charges payable out of or in respect of the same, shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament for the county or for the riding, parts or division of the county, in which such lands or tenements shall be respectively situate (d).

Right of voting  
in counties  
extended to  
leaseholders and  
occupiers of  
premises of  
certain value  
above charges.  
P. 88.

20. Every male person of full age, and not subject to any legal incapacity, who shall be entitled, either as lessee or assignee, to any lands or tenements, whether of freehold or of any other tenure whatever, for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years (whether determinable on a life or lives or not), of the clear yearly value of not less than ten pounds (e) over and above all rents and charges payable out of or in respect of the same (f), or for the unexpired residue, whatever it may be, of any term originally created for a period of not less than twenty years (whether determinable on a life or lives or not), of the clear yearly value of not less than fifty pounds over and above all rents and charges payable out of or in respect of the same, or who shall occupy as tenant any lands or tenements for which he shall be bona fide liable to a yearly rent of not less than fifty pounds (g), shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament for the county, or for the riding, parts, or division of the county, in which such lands or tenements shall be respectively situate: Provided always, that no person, being only a sub-lessee, or the assignee of any underlease, shall have a right to vote in such election in respect of any such term of sixty years or twenty years as aforesaid, unless he shall be in the actual occupation of the premises.

P. 100.

P. 98.

What not to  
be deemed  
charges.  
P. 61.

County voters  
need not be  
assessed to the  
land tax.  
P. 70.

21. No public or parliamentary tax, nor any church rate (h), county rate or parochial rate, shall be deemed to be any charge payable out of or in respect of any lands or tenements within the meaning of this Act.

22. In order to entitle any person to vote in any election of a knight of the shire or other member to serve in any future Parliament, in respect of any messuages, lands or tenements, whether freehold or otherwise, it shall not be necessary that the same shall be assessed to the land tax: any statute to the contrary notwithstanding.

(d) Superseded by 30 & 31 Vict. c. 102, s. 5; and repealed by the Statute Law Revision Act, 1874 (37 & 38 Vict. c. 35).

(e) Replaced by 5*l.*; 30 & 31 Vict. c. 102, s. 5.

(f) Repealed by the Statute Law Revision Act, 1874 (37 & 38 Vict. c. 35), as being superseded by 30 & 31 Vict. c. 102, s. 5.

(g) Repealed, 48 & 49 Vict. c. 3, s. 12, Sched. 2, Part I., except in so far as relates to the rights of persons saved by that Act (see s. 10); and replaced by ten pounds assimilated occupation franchise under s. 5 of that Act.

(h) Compulsory church rates were abolished by the Compulsory Church Rate Abolition Act, 1868 (31 & 32 Vict. c. 109).

**23.** No person shall be allowed to have any vote in the election of a knight or knights of the shire for or by reason of any trust estate or mortgage, unless such trustee or mortgagee be in actual possession or receipt of the rents and profits of the same estate, but the mortgagor or cestui que trust in possession shall and may vote for the same estate notwithstanding such mortgage or trust (*i*). **Section 23.**

Provision as to trustees and mortgagees.  
p. 43.

**24.** Notwithstanding anything hereinbefore contained no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament in respect of his estate or interest as a freeholder in any house, warehouse, counting-house, shop or other building occupied by himself, or in any land occupied by himself together with any house, warehouse, counting-house, shop or other building, such house, warehouse, counting-house, shop or other building being, either separately or jointly with the land so occupied therewith, of such value as would, according to the provisions hereinafter contained (*k*), confer on him the right of voting for any city or borough, whether he shall or shall not have actually acquired the right to vote for such city or borough in respect thereof (*l*).

No person to vote for a county in respect of any freehold house, &c., occupied by himself, which would confer a vote for a borough.

p. 19.

**25.** Notwithstanding anything hereinbefore contained no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament in respect of his estate or interest as a copyholder or customary tenant, or tenant in ancient demesne, holding by copy of court roll, or as such lessee or assignee, or as such tenant and occupier as aforesaid (*m*), in any house, warehouse, counting-house, shop or other building, or in any land occupied together with a house, warehouse, counting-house, shop or other building, such house, warehouse, counting-house, shop or other building being, either separately or jointly with the land so occupied therewith, of such value as would, according to the provisions hereinafter contained, confer on him or on any other person the right of voting for any city or borough, whether he or any other person shall or shall not have actually acquired the right to vote for such city or borough in respect thereof (*l*).

No person to vote for a county in respect of certain copyholds and leaseholds which would confer a vote for a borough.

Pp. 82, 89, 93.

**26.** Notwithstanding anything hereinbefore contained no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament unless he shall have been duly registered according to the provisions hereinafter contained (*n*), and no person shall be so registered in any year in respect of his estate or interest in any lands or tenements, as a freeholder, copyholder, customary tenant, or tenant in ancient demesne, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, for six calendar months at least next previous to the last day of July (*o*) in such year, which said period of six

No person to vote for a county unless registered.

No person to be registered unless he has been in possession for a certain time.

Pp. 73, 85.

(*i*) Amended and applied to voters for cities and boroughs by 6 & 7 Vict. c. 18, s. 74.

(*k*) In ss. 27, 28.

(*l*) Extended to franchises created by 30 & 31 Vict. c. 102. by s. 59 of that Act.

(*m*) Repealed by the Statute Law Revision Act, 1890 (53 & 54 Vict. c. 33), except in so far as relates to the rights of persons saved by 48 & 49 Vict. c. 3, as to which see s. 10 of that Act.

(*n*) Repealed, 6 & 7 Vict. c. 18, and replaced by that Act and Acts amending the same.

(*o*) Fifteenth day of July; 41 & 42 Vict. c. 26, s. 7; 48 & 49 Vict. c. 15, s. 12.

**Section 26.**

P. 99.

Exception in the case of property coming by descent, etc.

calendar months shall be sufficient, any statute to the contrary notwithstanding: and that no person shall be so registered in any year, in respect of any lands or tenements held by him as such lessee or assignee, or as such occupier and tenant as aforesaid (p), unless he shall have been in the actual possession thereof, or in receipt of the rents and profits thereof for his own use, as the case may require, for twelve calendar months next previous to the last day of July (t) in such year: Provided always, that where any lands or tenements, which would otherwise entitle the owner, holder, or occupier thereof to vote in any such election, shall come to any person, at any time within such respective periods of six or twelve calendar months, by descent, succession, marriage, marriage settlement, devise or promotion to any benefice in a church, or by promotion to any office, such person shall be entitled in respect thereof to have his name inserted as a voter in the election of a knight or knights of the shire in the lists then next to be made by virtue of this Act as hereinafter mentioned, and upon his being duly registered according to the provisions hereinafter contained (q), to vote in such election (r).

Right of voting in boroughs to be enjoyed by registered occupiers of houses, etc., of the annual value of 10/.

P. 135.

No occupier to be registered unless he has been occupier for twelve months, and been rated to the poor rate, if any;

nor unless he has paid the poor rate and assessed taxes,

Residence for six months also required.

27. In every city or borough which shall return a member or members to serve in any future Parliament, every male person of full age, and not subject to any legal incapacity, who shall occupy, within such city or borough, or within any place sharing in the election for such city or borough, as owner or tenant, any house, warehouse, counting-house, shop or other building (s), being either separately or jointly with any land within such city, borough or place occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, of the clear yearly value of not less than ten pounds, shall if duly registered according to the provisions hereinafter contained, be entitled to vote in the election of a member or members to serve in any future Parliament for such city or borough: Provided always, that no such person shall be so registered in any year unless he shall have occupied such premises as aforesaid for twelve calendar months next previous to the last day of July (t) in such year, nor unless such person, where such premises are situate in any parish or township in which there shall be a rate for the relief of the poor, shall have been rated in respect of such premises to all rates for the relief of the poor in such parish or township made during the time of such his occupation so required as aforesaid, nor unless such person shall have paid, on or before the twentieth day of July in such year, all the poor's rates and assessed taxes (u) which shall have become payable from him in respect of such premises previously to the sixth day of April (x) then next preceding: Provided also, that no such person shall be so registered in any year unless he shall have resided for six calendar months next previous to the last day of July in such year within the city or borough, or within the place sharing in the election for the city or borough, in respect of which city,

(p) Repealed by the Statute Law Revision Act, 1890 (53 & 54 Vict. c. 33), except in so far as relates to the rights of persons saved by 48 & 49 Vict. c. 3, as to which see s. 10 of that Act.

(q) See note (n) on preceding page.

(r) Applied to the five pounds property franchise in counties by 30 & 31 Vict. c. 102, s. 5.

(s) Explained 41 & 42 Vict. c. 26, s. 5.

(t) Fifteenth day of July: 41 & 42 Vict. c. 26, s. 7.

(u) Property tax excepted: 5 & 6 Vict. c. 35, s. 181.

(x) Fifth day of January: 11 & 12 Vict. c. 90.



*borough or place respectively he shall be entitled to vote, or within seven statute miles thereof or of any part thereof (c).* **Section 27.**

**28.** The premises in respect of the occupation of which any person shall be entitled to be registered in any year, and to vote in the election for any city or borough as aforesaid, shall not be required to be the same premises, but may be different premises occupied in immediate succession by such person during the twelve calendar months next previous to the *last day of July (a)* in such year, such person having paid, on or before the twentieth day of July in such year, all the poor's rates and assessed taxes which shall previously to the *sixth day of April then next preceding (b)* have become payable from him in respect of all such premises so occupied by him in succession. Premises may be occupied in succession. P. 115, P. 185.

**29.** Where any premises as aforesaid, in any such city or borough, or in any place sharing in the election therewith, shall be jointly occupied by more persons than one as owners or tenants, each of such joint occupiers shall, subject to the conditions hereinbefore contained as to persons occupying premises in any such city, borough, or place, be entitled to vote in the election for such city or borough, in respect of the premises so jointly occupied, in case the clear yearly value of such premises shall be of an amount which, when divided by the number of such occupiers, shall give a sum of not less than ten pounds for each and every such occupier, but not otherwise. Provision as to joint occupiers. P. 186.

**30.** In every city or borough which shall return a member or members to serve in any future Parliament, and in every place sharing in the election for such city or borough, it shall be lawful for any person occupying any house, warehouse, counting-house, shop, or other building, either separately or jointly with any land occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, in any parish or township in which there shall be a rate for the relief of the poor, to claim to be rated *(c)* to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming and actually paying or tendering the full amount of the rate or rates, if any, then due in respect of such premises, the overseers of the parish or township in which such premises are situate are hereby required to put the name of such occupier upon the rate for the time being; and in case such overseers shall neglect or refuse so to do, such occupier shall nevertheless for the purposes of this Act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: *(d)* *Provided always, that where by virtue of any Act of Parliament the landlord* Occupiers may demand to be rated; P. 189, and shall be put upon the rate and be deemed to be rated from the time of the making of the rate.

(c) This section is repealed by 48 & 49 Vict. c. 3, s. 12, Schedule 2, Part II., except as to rights of persons saved and conditions made applicable to franchises enacted by that Act. In the case of the city of London the seven statute miles had been altered to twenty-five by 30 & 31 Vict. c. 102, s. 46.

(a) Fifteenth day of July; 41 & 42 Vict. c. 26, s. 7.

(b) Fifth day of January in the same year; 11 & 12 Vict. c. 90.

(c) A claim may be made once for all, and need not be repeated in respect of every rate made during the required period of occupation; 14 & 15 Vict. c. 14.

(d) This section was extended to all occupiers of premises capable of conferring the franchise for a county under 30 & 31 Vict. c. 102, by 31 & 32 Vict. c. 58, s. 30.

**Section 30.** *shall be liable to the payment of the rate for the relief of the poor in respect of any premises occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord: but that in case the tenant who shall have been rated for such premises in consequence of any such claim as aforesaid shall make default in the payment of the poor's rate due in respect thereof, such landlord shall be and remain liable for the payment thereof in the same manner as if he alone had been rated in respect of the premises so occupied by his tenant (e).*

Provision as to possession and residence of freeholders voting for cities and towns being counties of themselves.

P. 114.

P. 119.

Freeholds within the new boundaries to confer the right of voting.

P. 115.

Burgesses and freemen not to vote in boroughs, unless resident, etc.

P. 126.

**31.** In every city or town being a county of itself, in the election for which freeholders or burgage tenants, either with or without any super-added qualification, now have a right to vote, every such freeholder or burgage tenant shall be entitled to vote in the election of a member or members to serve in all future Parliaments for such city or town, provided he shall be duly registered according to the provisions hereinafter contained (f); but no such person shall be so registered in any year in respect of any freehold or burgage tenement, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof, for his own use, for twelve calendar months next previous to the last day of July (g) in such year (except where the same shall have come to him, at any time within such twelve months, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or to any office), nor unless he shall have resided for six calendar months next previous to the last day of July (g) in such year within such city or town, or within seven statute miles (h) thereof or of any part thereof: Provided always, that nothing in this enactment contained shall be deemed to vary or abridge the provisions hereinbefore made relative to the right of voting for any city or town being a county of itself, in respect of any freehold for life or lives (i): Provided also, that every freehold or burgage tenement which may be situate without the present limits of any such city or town being a county of itself, but within the limits of such city or town as the same shall be settled and described by the Act to be passed for that purpose as hereinbefore mentioned, shall confer the right of voting in the election of a member or members to serve in any future Parliament for such city or town in the same manner as if such freehold or burgage tenement were situate within the present limits thereof.

**32.** Every person who would have been entitled to vote in the election of a member or members to serve in any future Parliament for any city or borough not included in the Schedule marked (A.) to this Act annexed (j), either as a burgess or freeman, or in the City of London as a freeman and liveryman, if this Act had not been passed, shall be entitled to vote in such election, provided such person shall be duly registered according to the provisions hereinafter contained (k), but no such person shall be so registered in any year, unless he shall, on the last day of July (l)

(e) This proviso was superseded by 30 & 31 Vict. c. 102, s. 7; and repealed by the Statute Law Revision Act, 1874 (37 & 38 Vict. c. 35).

(f) Repealed by 6 & 7 Vict. c. 18, s. 1, and replaced by that Act and the Acts and enactments amending and affecting the same.

(g) Fifteenth day of July; 41 & 42 Vict. c. 26, s. 7.

(h) As to measurement, see 6 & 7 Vict. c. 18, s. 76.

(i) Section 18, *ante*.

(j) Repealed by the Statute Law Revision Act, 1890 (53 & 54 Vict. c. 33).

(k) Repealed and superseded; 6 & 7 Vict. c. 18, s. 1.

(l) Fifteenth day of July; 41 & 42 Vict. c. 26, s. 7.

in such year, be qualified in such manner as would entitle him then to vote if such day were the day of election, and this Act had not been passed, nor unless, where he shall be a burgess or freeman or freeman and liveryman of any city or borough, he shall have resided for six calendar months next previous to the *last day of July* (l) in such year within such city or borough, or within seven statute miles from the place where the poll for such city or borough shall heretofore have been taken (m), nor unless, where he shall be a burgess or freeman of any place sharing in the election for any city or borough, he shall have resided for six calendar months next previous to the *last day of July* (l) in such year within such respective place so sharing as aforesaid or within seven statute miles of the place mentioned in conjunction with such respective place so sharing as aforesaid, and named in the second column of the Schedule marked (E. 2) to this Act annexed: Provided always, that no person who shall have been elected, made, or admitted a burgess or freeman since the first day of March one thousand eight hundred and thirty-one, otherwise than in respect of birth or servitude, or who shall hereafter be elected, made, or admitted a burgess or freeman, otherwise than in respect of birth or servitude, shall be entitled to vote as such in any such election for any city or borough as aforesaid, or to be so registered as aforesaid: Provided also, that no person shall be so entitled as a burgess or freeman in respect of birth unless his right be originally derived from or through some person who was a burgess or freeman, or entitled to be admitted a burgess or freeman previously to the first day of March in the year one thousand eight hundred and thirty-one, or from or through some person who since that time shall have become or shall hereafter become a burgess or freeman in respect of servitude: (n) [*Proviso as to burgesses and freemen of Swansea, Loughor, Neath, Aberavon, and Kenfig*].

## Section 32.

exclusion of burgesses and freemen created since March 1st, 1831, except in respect of birth and servitude.

Proviso as to burgesses and freemen by birth.

P. 126.

33. No person shall be entitled to vote in the election of a member or members to serve in any future Parliament for any city or borough, save and except in respect of some right conferred by this Act, or as a burgess or freeman, or as a freeman and liveryman, or, in the case of a city or town being a county of itself, as a freeholder or burgage tenant, as hereinbefore mentioned (o).

Reservation of other rights of voting in boroughs.

P. 115.

34. [*Saving for persons entitled to vote for New Shoreham, Cricklade, Aylesbury, or East Retford, in respect of freeholds*] (p).

(m) In the case of the city of London, within 25 miles of any part thereof; 30 & 31 Vict. c. 102, s. 46.

(n) Rights of voting retained or reserved by this or the following section, were by 14 & 15 Vict. c. 39, not to be affected by the change of rating under the Small Tenements Act, 1850 (13 & 14 Vict. c. 99). But the last mentioned Act is now repealed by 32 & 33 Vict. c. 41, s. 6, *post*, and both it and 14 & 15 Vict. c. 39, are repealed by the Statute Law Revision Act, 1875 (38 & 39 Vict. c. 66).

(o) Here followed a proviso for the reservation of rights of voting for persons qualified to vote on June 7th, 1832, subject to conditions as to registration and residence, followed by another proviso depriving such persons of such right in case of omission from the register for two successive years. This latter proviso was superseded by 6 & 7 Vict. c. 18, s. 78, and repealed by the Statute Law Revision Act, 1874 (37 & 38 Vict. c. 35). The whole section is now repealed by the Statute Law Revision Act, 1890 (53 & 54 Vict. c. 33).

(p) Repealed by Statute Law Revision Act, 1888 (51 & 52 Vict. c. 57).



**Section 35.** 35. Provided nevertheless, that notwithstanding anything hereinbefore contained no person shall be entitled to vote in the election of a member or members to serve in any future Parliament for any city or borough (other than a city or town being a county of itself, in the election for which freeholders or burgage tenants have a right to vote as hereinbefore mentioned), in respect of any estate or interest in any burgage tenement or freehold which shall have been acquired by such person since the first day of March one thousand eight hundred and thirty-one, unless the same shall have come to or been acquired by such person since that day, and previously to the passing of this Act, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or by promotion to any office.

Exclusion of  
right of voting  
in boroughs in  
respect of  
certain estates  
acquired since  
March 1st, 1831.  
P. 115.

Disqualification  
by receipt of  
parochial relief.  
P. 272.

36. No person shall be entitled to be registered in any year as a voter in the election of a member or members to serve in any future Parliament for any city or borough who shall within twelve calendar months next previous to the *last day of July* (q) in such year have received parochial relief or other alms which by the law of Parliament now disqualify from voting in the election of members to serve in Parliament (r).

37—57. [*As to formation of registers and appointment and payment of revising barristers*] (s).

58—62. [*Various provisions relating to elections*] (t).

63. [*Counties to be divided into polling districts*] (u).

64—74. [*Various provisions relating to the polls*] (v).

All election laws  
to remain in  
force except  
where super-  
seded by this  
Act.

75. All laws, statutes, and usages now in force respecting the election of members to serve in Parliament for that part of the United Kingdom called England and Wales shall be and remain, and are hereby declared to be and remain, in full force, and shall apply to the election of members to serve in Parliament for all the counties, ridings, parts, and divisions of counties, cities and boroughs, hereby empowered to return members, as fully and effectually as if the same respectively had heretofore returned members, except so far as any of the said laws, statutes, or usages are repealed or altered by this Act, or are inconsistent with the provisions thereof (x).

Penalties on  
officers for  
breach of duty  
P. 290.

76. If any sheriff, returning officer, barrister, overseer, or any person whatsoever, shall wilfully contravene or disobey the provisions of this Act, or any of them, with respect to any matter or thing which such sheriff,

(q) Fifteenth day of July in boroughs parliamentary and municipal; 41 & 42 Viet. c. 26, s. 7. This section as so amended was extended to occupation voters in parliamentary counties by 48 & 49 Viet. c. 3, and to freeholders in counties by 48 & 49 Viet. c. 15, s. 12.

(r) Extended to counties by 30 & 31 Viet. c. 102, s. 40. See as to vaccination, 39 & 31 Viet. c. 84, s. 26; medical relief, 48 & 49 Viet. c. 46; admission to a hospital, 54 & 55 Viet. c. 76, s. 80 (4); 56 & 57 Viet. c. 102, s. 23.

(s) Repealed by 6 & 7 Viet. c. 18, s. 1.

(t) Repealed by 6 & 7 Viet. c. 18; 35 & 36 Viet. c. 33; and 53 & 54 Viet. c. 33.

(u) Repealed by Ballot Act, 1872 (35 & 36 Viet. c. 33), s. 32.

(v) Some of these, viz., ss. 65, 67, 68 (in part), 69, 71 (in part) and 72, 74, have been repealed by 35 & 36 Viet. c. 33.

(x) Cp. 30 & 31 Viet. c. 102, s. 56.



returning officer, barrister, overseer, or other person is hereby required to do, he shall for such his offence be liable to be sued in an action of debt in any of His Majesty's Courts of Record at Westminster for the penal sum of 500*l.*, and the jury before whom such action shall be tried may find their verdict for the full sum of 500*l.*, or for any less sum which the said jury shall think it just that he should pay for such his offence ; and the defendant in such action, being convicted, shall pay such penal sum so awarded, with full costs of suit, to the party who may sue for the same : Provided always, that no action shall be brought except by a person being an elector or claiming to be an elector, or a candidate, or a member actually returned, or other party aggrieved : Provided also, that the remedy hereby given against the returning officer shall not be construed to supersede any remedy or action against him according to the law now in force (y).

## Section 76.

77. [*Writs, etc., to be made conformable to this Act.*]

78. *Provided always, that nothing in this Act contained shall extend to or in anywise affect the election of members to serve in Parliament for the universities of Oxford or Cambridge, or shall entitle any person to vote in the election of members to serve in Parliament for the city of Oxford or town of Cambridge in respect of the occupation of any chambers or premises in any of the colleges or halls of the universities of Oxford or Cambridge (z).*

*This Act not to extend to universities of Oxford and Cambridge.*  
P. 195.

79. Throughout this Act, wherever the words "city or borough," "cities or boroughs," may occur, those words shall be construed to include, except there be something in the subject or context manifestly repugnant to such construction, all towns corporate, cinque ports, districts, or places within *England and Wales* which shall be entitled after this Act shall have passed to return a member or members to serve in Parliament, other than counties at large, and ridings, parts, and divisions of counties at large, and shall also include the town of *Berwick-upon-Tweed* (a). . . . And the words "parish or township" shall extend to every parish, township, vill, hamlet, district, or place maintaining its own poor (b) ; and the words "overseers of the poor" shall extend to all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed ; and all matters by this Act directed to be done by the overseers of a parish or township may be lawfully done by the major part of such overseers (c) ; and wherever any notice is by this Act required to be given to the overseers of any parish or township, it shall be sufficient if such notice shall be delivered to any one of such overseers, or shall be left at his place of abode, or at his office or other place for transacting parochial business, or shall be sent by the post, addressed by a sufficient direction to the overseers of the particular parish or township, or to any one of them, either by their or his christian name and surname or by their or his name of office ; and all provisions in this Act relative to any matters to

Definition "city or borough."

"Parish or township."

"Overseers of the poor."

Majority of overseers may act.

Notices to overseers.

(y) See 6 & 7 Vict. c. 18, s. 97.

(z) This section was not affected by 41 & 42 Vict. c. 26 (see s. 43 of that Act), but is repealed by 48 & 49 Vict. c. 15, s. 15. See also 30 & 31 Vict. c. 102, s. 2.

(a) See 6 & 7 Vict. c. 18, s. 101. (b) See 6 & 7 Vict. c. 18, s. 101.

(c) See 6 & 7 Vict. c. 18, s. 101 ; 45 & 46 Vict. c. 50, ss. 7 (1), 238 (1) ; and 56 & 57 Vict. c. 73, s. 5 (2).

**Section 79.** be done by or with regard to . . . clerks of the peace (*d*) for counties . . . shall extend to the . . . clerks of the peace . . . of the several ridings of Yorkshire and parts of Lincolnshire ; and the clerk of the peace for the time being for the borough of Newport in the Isle of Wight shall for the purposes of this Act be deemed and taken to be the clerk of the peace for the county of the Isle of Wight (*e*) ; and all the said respective . . . clerks of the peace, shall have power to do the several matters required by this Act, as well within places of exclusive jurisdiction as without ; and no misnomer or inaccurate description of any person or place named or described in any schedule to this Act annexed, or in any list or register of voters, or in any notice required by this Act, shall in anywise prevent or abridge the operation of this Act with respect to such person or place, provided that such person or place shall be so designated in such schedule, list, register, or notice as to be commonly understood (*f*).

Power of clerks of the peace in certain cases.

P. 281.

Misnomer not to interfere with operation of Act.

[Schedules (H.) (I.) and (K.) containing the forms of lists and notices referred to in the Act, were repealed by 6 & 7 Vict. c. 18, s. 1.]

## PARLIAMENTARY BOUNDARIES ACT, 1832 (*g*).

(2 & 3 WILL. 4, CAP. 61.)

*An Act to settle and describe . . . the limits of cities and boroughs in England and Wales in so far as respects the election of members to serve in Parliament.* [11th July, 1832.]

\* \* \* \* \*

BE it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same.

\* \* \* \* \*

Rules for the construction of the descriptions contained in schedule (O) to this Act.

**36.** Subject to any direction to the contrary, the following rules shall be observed in the construction of the several descriptions of boundaries contained in the said schedule hereto annexed (marked O) (*h*), (that is to say).—

1. That the words “northward,” “southward,” “eastward,” “westward,” shall respectively be understood to denote only the general direction in which any boundary proceeds from the point last described, and not that such boundary shall continue to proceed throughout in the same direction to the point next described.

(*d*) See 6 & 7 Vict. c. 18, s. 101 ; 51 & 52 Vict. c. 10, s. 14 ; 51 & 52 Vict. c. 41, s. 83.

(*e*) See 6 & 7 Vict. c. 18, s. 101 ; 48 & 49 Vict. c. 15, s. 7 (2).

(*f*) See 2 & 3 Will. 4, c. 64, s. 38 ; 6 & 7 Vict. c. 18, s. 101 ; and 45 & 46 Vict. c. 50, s. 241.

(*g*) So much of this Act as is of general application is inserted here for the purposes of any questions that may arise thereon before the revising barristers under ss. 4, 7, 9, 10, and other sections of the Reform Act, 1832, this Act shall be deemed and taken to be part of that Act as fully and effectually as if the same were incorporated therewith.

(*h*) This schedule specifies the boundaries, and the Act declares in s. 35 that the several cities, boroughs, and places specified therein, shall, as to the election of members or a member to serve in Parliament, respectively include the places and be comprised within the boundaries which in such schedule are respectively specified in conjunction with the names of such cities, boroughs and places.

## Section 36.

2. That when any road is mentioned merely by the name of the place to which such road leads, the principal road thither from the city, borough, or place of which the boundary is in course of description shall be understood.
3. That whenever a line is said to be drawn from, to, or through an object, such line shall, in the absence of any direction to the contrary, be understood to be drawn from, to, or through the centre of such object, as nearly as the centre thereof can be ascertained.
4. That every building through which or through any part whereof any boundary hereby established shall pass shall be considered as within such boundary : Provided always, that if the boundaries of any two or more of the cities, boroughs, and places whereof the contents and boundaries are hereby settled and described shall pass through the same building, or any part thereof, such building shall be considered as within that one of such two or more of the said cities, boroughs, and places which was before the passing of the hereinbefore recited Act entitled to return members or a member to serve in Parliament, or if neither or more than one of such two or more of the said cities, boroughs, and places shall have been so entitled, then within that one of them whereof the area as hereby established is the smallest.
5. That whenever any boundary by this Act established is said to pass along any other boundary, or along any road, lane, path, river, stream, canal, drain, brook, or ditch, the middle (as nearly as the same can be ascertained) of such other boundary or of such road, lane, path, river, stream, canal, drain, brook, or ditch, shall be understood.
6. That the middle of any road or lane shall be understood as the middle of the carriageway along the same.
7. That when any boundary by this Act established is said to proceed along a road, lane, path, river, stream, canal, or drain, from or to an object, such boundary shall be understood to proceed from or to that point in the middle of such road, lane, path, river, stream, canal, or drain, from which the shortest line would be drawn to the centre of such object as nearly as the centre thereof can be ascertained.
8. That the point at which any fence, hedge, wall, boundary, road, lane, path, river, stream, canal, drain, brook, or ditch, is said to cut, meet, join, cross, reach, or leave any fence, hedge, wall, boundary, road, lane, path, river, stream, canal, drain, brook, or ditch, shall be understood as that point at which a line passing along the middle of the fence, hedge, wall, boundary, road, lane, path, river, stream, canal, drain, brook, or ditch, so cut, met, joined, crossed, reached, or left, would be intersected by a line drawn along the middle of the fence, hedge, wall, boundary, road, lane, path, river, stream, canal, drain, brook, or ditch, so cutting, meeting, joining, crossing, reaching, or leaving, if such line were prolonged sufficiently far.
9. That when a line is said to be drawn to a road, lane, river, stream, or canal, such line shall be considered as prolonged to the middle of such road, lane, river, stream, or canal.
10. That by the words "sea" and "sea coast" shall be understood the low-water mark (*i*).

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(i) See 31 & 32 Vict. c. 46, s. 11.

**Section 36.** 11. That if any deficiency shall be found to exist in the line of any boundary described in the said schedule to this Act annexed marked (O) by reason of the intervention of any space between any two immediately consecutive points, such deficiency shall be supplied by a straight line to be drawn from the one to the other of such two immediately consecutive points.

Provision as to detached parts of parishes, etc.

37. Notwithstanding the generality of any description contained in the said schedule to this Act annexed marked (O), no city, borough, or place, the contents whereof are specified in such schedule, shall include any part of any parish, township, hamlet, chapelry, tithing, manor, or liberty, which is detached from the main body of such parish, township, hamlet, chapelry, tithing, manor, or liberty, if, by reason of including such detached part, the boundary hereby established of such city, borough, or place, would not be continuous, unless such detached part shall, before the passing of this Act, have formed part of such city, borough, or place for the purpose of the election of members to serve in Parliament—but all places, parochial or extra-parochial, which are surrounded by the contents of which any city, borough, or place, is said in such schedule marked (O) to consist, but for which no provision is made in such Schedule (O), shall be considered as included within such city, borough, or place, for the purpose of the election of members to serve in Parliament.

Misnomer not to vitiate, and descriptions in schedule (O) to be considered as existing on October 1st, 1831.

38. Provided always, that no misnomer or inaccurate description contained in this Act or in any of the schedules hereto annexed, shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same shall be so designated as to be commonly understood (j); and that for the purpose of identifying the descriptions contained in the said Schedule (O) with the subjects of such descriptions respectively, such descriptions shall, if now inapplicable, be held to apply to such subjects as they existed on the first day of October one thousand eight hundred and thirty-one.

## EXCISE MANAGEMENT ACT, 1841.

(4 & 5 VICT. CAP. 20.)

*An Act to alter and amend certain Laws relating to the Collection and Management of the Duties of Excise.* [18th May, 1841.]

Keepers of excise offices not to be disqualified as officers of excise under 7 & 8 Geo. 4, c. 53, or 4 & 5 Will. 4 c. 51.

P. 269.

4. And whereas doubts have been raised whether the keeper of an excise office is an officer of excise within the meaning of the said recited Acts, be it declared and enacted that no person appointed by the commissioners of excise under the powers and authorities of the said recited Act of the eighth year of the reign of His Majesty King George the Fourth, or of this Act, to hold or keep an office of excise, shall on account or by reason of such appointment be deemed or taken to be an officer of excise, nor shall as such be subject to any of the restrictions, or entitled to any of the exemptions to which officers of excise are under the said Acts recited in the preamble of this Act, or either of them, or under any other Act or Acts, subject or entitled (k).

(j) See 2 & 3 Will. 4, c. 45, s. 79; 6 & 7 Vict. c. 18, s. 101; 45 & 46 Vict. c. 50, s. 241.

(k) Repealed by the Statute Law Revision Act, 1874 (No. 2) 37 & 38 Vict. c. 96.



INCOME TAX ACT, 1842.

Section 184.

(5 & 6 VICT. CAP. 35.)

*An Act for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices.* [22nd June, 1842.]

\* \* \* \*

184. Provided always, that no neglect or omission to pay, within any limited period, the duties assessed under the authority of this Act in respect of any house or other building, shall prevent any person from being admitted or retained on the register or list of persons entitled to vote in the election of a member or members to serve in Parliament for any city or borough, or from voting at any such election (l).

Non-payment of duties not to disqualify from voting at elections of members of Parliament.  
P. 176.

PARLIAMENTARY REGISTRATION ACT, 1843.

(6 & 7 VICT. CAP. 18.)

*An Act to amend the Law for the Registration of Persons entitled to vote, and to define certain Rights of voting, and to regulate certain Proceedings in the Election of Members to serve in Parliament for England and Wales.* [31st May, 1843.]

Whereas an Act was passed in the second year of the reign of His late Majesty, intituled "An Act to amend the Representation of the People in England and Wales;" and whereas it is expedient to explain and amend some parts of the said Act, and to make further and other provisions relating to the registration of persons entitled to vote in the election of members to serve in Parliament for England and Wales: And whereas it is recited in the said Act, that "it was expedient to form a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament;" and divers clauses and provisions were in and by the said Act enacted, for the purpose of forming a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament for any county, or for the riding, parts, or division of any county, also for the purpose of forming a register of persons entitled to vote in the election of a member or members to serve in any future Parliament for any city or borough, and for the defraying of the expenses to be incurred thereby, and for the appointment and payment of revising barristers: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the said clauses and provisions of the said Act so enacted for the purpose of forming a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in Parliament for any county, or for the riding, parts, or division of any county, and for the purpose of forming a register of all persons entitled to vote in the election of a member or members to serve in Parliament for any city or borough in England and Wales, and for the defraying of the expenses to be incurred thereby, and for the appointment and payment of revising barristers, shall be and the same are hereby repealed, except as to any register heretofore made (m).

2 Will. 4, c. 45.

Certain provisions of recited Act repealed.

(l) See 2 & 3 Will. 4, c. 45, s. 27.

(m) This section is repealed by the Statute Law Revision Act, 1874 (No. 2), 37 & 38 Vict. c. 96.

## Section 2.

This Act to be taken as part of rectified Act.

Clerk of the peace shall have forms of precepts, etc., printed, and shall annually issue his precepts, with forms of notices, etc., to overseers.

P. 283.

2. This Act shall *come into force on the first day of June next, and shall thenceforth* be taken to be part of the said Act as fully as if it were incorporated therewith.

3. And whereas, for the purpose of forming a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in Parliament, it is expedient that lists should annually be made out in manner hereinafter mentioned: Be it therefore enacted, that the clerk of the peace (*n*) for every county shall cause a sufficient number of forms of precepts, notices, and lists to be printed, *according to the respective Forms numbered (1, 2, 3, 6), in the Schedule (A.) (o), and of the Table numbered (1) in the Schedule (D.) to this Act annexed (p), and shall also, on or before the tenth day of June (q) in every year, make and cause to be delivered to the overseers of the poor of every parish and township within his county his precept according to the Form numbered (1) in the said Schedule (A.) (r), together with a sufficient number of the said printed forms of notices and lists, and of the copies of such part of the register of voters then in force for such county as shall relate to such parish or township respectively, and of the said table (p), for the purposes hereinafter mentioned.*

Overseers to give notice annually, requiring voters to send in their claims.

P. 288.

4. The overseers of the poor of every parish and township shall, on or before the twentieth day of June in every year, publish a notice, *according to the form numbered (2) in the said Schedule (A.) (s), having first signed the same, requiring all persons entitled to vote in the election of a knight or knights of shire to serve in Parliament in respect of any property situate wholly or in part within such parish or township who shall not be upon the register of voters then in force, and also all persons so entitled as aforesaid, who being upon such register shall not retain the same qualification or continue in the same place of abode as described in such register, and who are desirous to have their names inserted in the register about to be made, to give or send to the said overseers, on or before the twentieth day of July then next ensuing, a notice in writing, by them signed, of their claim to vote as aforesaid; and every such person, and any person who being upon such register may be desirous to make a new claim, shall on or before the said twentieth day of July deliver or send to the said overseers a notice signed by him of his claim, according to the form of notice set forth in that behalf in the said Form numbered (2) (t), or to the like effect.*

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Overseers to prepare lists of claimants

P. 289.

5. The overseers of the poor of every parish and township respectively shall on or before the last day of July in every year make out, *according to the Form numbered (3) in the said Schedule (A.) (u), an alphabetical*

(*n*) County council: see 51 & 52 Vict. c. 10, s. 14; 51 & 52 Vict. c. 41; s. 83 (6).

(*o*) Repealed, 48 & 49 Vict. c. 15, s. 17.

(*p*) Repealed by Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(*q*) Between April 8th and 15th: 48 & 49 Vict. c. 15, s. 7 (1); and words in italics repealed by Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(*r*) Repealed, 48 & 49 Vict. c. 15, s. 17; see Registration Order, 1895, First Schedule.

(*s*) Repealed, 48 & 49 Vict. c. 15, s. 17; replaced by the Registration Order, 1895, First Schedule, Form No. 1. Copy ownership register to be published at the same time; 28 & 29 Vict. c. 36, s. 3.

(*t*) Repealed, 48 & 49 Vict. c. 15, s. 17; see now Registration Order, 1895, First Schedule, Form No. 2.

(*u*) Repealed, 48 & 49 Vict. c. 15, s. 17; see now Registration Order, 1895, First Schedule, Form No. 3. As to parochial electors list claims, see 56 & 57 Vict. c. 73, s. 44.

list of all persons who on or before the twentieth day of July then next preceding shall have claimed as aforesaid; and in every such list the christian name and surname of every claimant, with the place of his abode, the nature of his qualification, and the local or other description of the property, and the name of the occupying tenant thereof, shall be written as the same are stated in the claim; and the said overseers, if they shall have reasonable cause to believe that any person whose name shall appear in such list of claimants, or in the copy of the register relating to their parish or township, and received by them from the clerk of the peace, is not entitled to have his name upon the register then next to be made, shall add the word "objected" before the name of every such person on the margin of such list of claimants or the said copy of register; and the said overseers shall also add the word "dead" before the name of any person in the said copy of the register whom they shall have reasonable cause to believe to be dead; and the overseers shall cause a sufficient number of copies of such list of claimants, and of the said copy of the register, with all such marginal additions as aforesaid, to be written or printed, and shall on or before the first day of August sign and publish the same; and the said overseers shall likewise keep a copy of such list of claimants, and of the said copy of the register, with the marginal additions respectively as aforesaid, signed by them, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days after the same shall have been published, and shall deliver written or printed copies thereof, signed by them, to all persons applying for the same, on payment of a price for each copy after the rate contained in the Table numbered (1) in the Schedule (D.) to this Act annexed.

## Section 5.

Overseers  
empowered to  
object to any  
name;

to add the word  
"dead" against  
any name, to  
publish copies  
of list of claim-  
ants, and of the  
part of the  
register of  
voters relating  
to their own  
parish;  
to keep copies of  
the same for  
inspection and  
sale.

6. The list of claimants (if any) so to be made out by the overseers of every parish or township, together with the said copy of the register, with the marginal additions respectively as aforesaid, for the time being, relating to the same parish or township, shall be deemed to be the list of voters of such parish or township for the county within which such parish or township may be situate, for the purposes hereinafter mentioned.

The list of  
claimants in any  
parish, and the  
part of the  
register relating  
to that parish,  
to be deemed  
the list of voters  
of such parish.

7. In every year every person who shall be upon the register for the time being for any county may object to any other person upon any list of voters for such county as not having been entitled, on the *last* (*c*) day of July then next preceding, to have his name inserted in any list of voters for such county; and every person so objecting (save and except overseers objecting in the manner hereinbefore mentioned) shall, on or before the *twenty-fifth* (*y*) day of August in such year, give or cause to be given to the overseers of the poor of the parish or township to which the list of voters containing the name of the person so objected to may relate, a notice, *according to the Form numbered (4) in the said Schedule (A.)* (*z*), or to the like effect; and the person so objecting shall also, on or before the said *twenty-fifth* (*a*) day of August, give or cause to be given to the person so objected to, or leave or cause to be left at his

Any person on  
the register may  
object to any  
other person  
named in the  
list as not  
entitled to be  
upon it.

P. 295.

Notice of  
objection to be  
given to the  
overseers;  
and also to the  
party objected  
to;

(x) Fifteenth; 48 & 49 Vict. c. 15, s. 7.

(y) Twentieth; 48 & 49 Vict. c. 15, s. 3 (1).

(z) Repealed 48 & 49 Vict. c. 15, s. 17; see now Registration Order, 1895, First Schedule, Form No. 4.

(a) Twentieth; 48 & 49 Vict. c. 15, s. 3 (1).



**Section 7.**

and to the occupier of the qualifying property, if the person objected to is not resident in the parish.

List of persons objected to be published.

P. 289.

Overseers to keep copies for inspection and sale.

Lists, etc., to be delivered to the clerk of the peace.

P. 289.

Town clerk in every borough to have forms of precepts, etc., printed;

P. 283.

place of abode, as described in such list, a notice *according to the Form numbered (5) in the said Schedule (A.) (b)*, or to the like effect; and every such notice of objection shall be signed by the party so objecting as aforesaid; and wherever the place of abode of the person objected to, as described in the said list, shall not be in the parish or township to which such list may relate, and the name of the occupying tenant of the whole or any part of the qualifying property, together with his place of abode, shall appear in such list, the person so objecting shall also, on or before the same day, give to or leave, or cause to be given or left, at the place of abode of any such occupying tenant, a duplicate notice, signed as aforesaid (c).

8. The said overseers shall in every year include the names of all persons against whom notice of objection shall have been given to them as aforesaid in that year in a list *according to the Form numbered (6) in said Schedule (A.) (d)*, and shall publish such list *on or before the first day of September (e)* in such year, and shall also keep a copy of such list, to be perused by any person without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day except Sunday, during the first fourteen days *of the said month of September (f)*, and shall deliver a copy of such list to any person requiring the same on payment of a price for each copy after the rate contained in the Table numbered (1) in the Schedule (D.) to this Act annexed.

9. On or before *the twenty-ninth day of August (g)* in every year the overseers of every parish or township shall deliver to the clerk of the *peace (h)* of the county wherein the said parish or township is situate the said copy of the register, and the said list of claimants, with the marginal additions respectively as aforesaid, and also a copy of the list of persons objected to respectively signed as aforesaid, and relating to their parish or township.

10. And for the purpose of preparing like lists and forming a register of all persons entitled to vote in the election of a member or members to serve in Parliament for any city or borough, the town clerk of every such city or borough shall cause a sufficient number of forms of precepts, notices, and lists to be printed *according to the Forms numbered (1, 2, 3, 4, 8, 12) in the Schedule (B.) (i)* and of the table numbered (1) in the Schedule (D.) to this Act annexed, and shall *on or before the tenth*

(b) Repealed, 48 & 49 Vict. c. 15, s. 17; see now Registration Order, 1895, First Schedule, Form No. 5.

(c) Grounds of objection must be specified in notices of objection to persons already on the ownership register other than notices given to overseers, 28 & 29 Vict. c. 36, s. 6.

(d) Repealed, 48 & 49 Vict. c. 15, s. 17; see Registration Order, First Schedule, Form No. 6. As to parochial electors list, see 56 & 57 Vict. c. 73, s. 44.

(e) Twenty-fifth day of August; 48 & 49 Vict. c. 15, s. 3 (2).

(f) After the said twenty-fifth day of August; 48 & 49 Vict. c. 15, s. 3 (2).

(g) Twenty-fifth day of August; 48 & 49 Vict. c. 15, s. 3 (2).

(h) County council; see 51 & 52 Vict. c. 10, s. 14; and 51 & 52 Vict. c. 41, s. 83 (6).

(i) Replaced, 41 & 42 Vict. c. 26, s. 8, and Schedule, which are again replaced by 48 & 49 Vict. c. 15, s. 18, and Schedule 3, as altered under 51 & 52 Vict. c. 10, s. 13; and these again have been replaced under 51 & 52 Vict. c. 76 (7) by the Registration Orders, 1889 and 1895.



day of June (*k*) in every year make, and cause to be delivered to the overseers of the poor of every parish or township situate wholly or in part within such city or borough, or within any place sharing in the election for such city or borough, his precept according to the Form numbered (1) in the said Schedule (B.) (*l*), and also a sufficient number of the said printed forms of notices and lists, and of the said table.

**Section 10.**

and to issue his precept with forms of notices, etc. to the overseers.

11. The overseers of every such parish or township shall, on or before the twentieth day of June in every year, publish a notice in writing according to Form numbered (2) in the said Schedule (B.) (*m*), stating that no person will be entitled to have his name inserted in any list of voters for the city or borough then next to be made in respect of the occupation of premises of the clear yearly value of not less than ten pounds, situate wholly or in part within such parish or township, unless he shall pay, on or before the twentieth day of July then next ensuing, all the poor's rates and assessed taxes which shall have become payable from him in respect of such premises during the twelve calendar months next before the sixth day of April (*n*) then last past (*o*).

Overseers to give public notice as to the payment of rates and taxes by occupiers of premises of the yearly value of 10*l*.

P. 288.

12. The overseers of every parish or township, for their assistance in making out the list of voters as hereinafter mentioned (upon request made by them or any of them, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day except Sunday, during the month of July in every year, to any assessor or collector of taxes, or to any other officer having the custody of any tax assessment or duplicate for such parish or township), shall have free liberty to inspect any such tax assessment or duplicate, and to extract such particulars as may appear to such overseer or overseers to be necessary; and every such assessor or collector of taxes shall, within two days after the twentieth day of July in every year, make out and deliver to the said overseers a list containing the name and place of abode of every person who shall not have paid on or before the said twentieth day of July the assessed taxes which shall have become payable from him in respect of any premises within the said parish or township during the twelve calendar months next before the sixth day of April (*n*) then last past; and the overseers shall keep the said list, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days after the list of voters shall have been published, as hereinafter mentioned.

Overseers to have power of inspecting tax assessments, etc.

Assessors or collectors of taxes to deliver to overseers in July, a list of persons in arrear of taxes payable at April last past.

P. 289.

Overseers to keep list for inspection.

13. The overseers of every such parish or township shall, on or before the last day of July in every year, make out or cause to be made out according to the Form numbered (3) in the Schedule (B.) to this Act annexed (*q*), an alphabetical list of all persons who may be entitled to vote in the election of a member or members to serve in Parliament for such city or borough in respect of the occupation of premises of the clear yearly value of not less than ten pounds, situate wholly or in part

Overseers to prepare and publish lists of persons entitled to vote as 10*l*. occupiers, and of all other persons (other than freemen) entitled to vote.

P. 289.

(*k*) On or within seven days before the fifteenth of April; 48 & 49 Vict. c. 15, s. 7.

(*l*) See now Registration Order, 1895, Third Schedule.

(*m*) See now Registration Order, Third Schedule, Form (B.).

(*n*) Fifth day of January; 11 & 12 Vict. c. 90.

(*o*) This section was extended with amendments to municipal voters in boroughs municipal as well as parliamentary, 41 & 42 Vict. c. 26, s. 10.

(*p*) Now see Registration Order, 1895, Third Schedule, Form (D.) No. 1.

**Section 13.** within such parish or township, and another alphabetical list, *according to the Form numbered (1) in the said Schedule (B.) (r)* of all other persons (except freemen) who may be entitled to vote at the election of such city or borough by virtue of any other right whatsoever, and in each of the said lists the christian name and surname of every such person shall be written at full length, together with the place of his abode and the nature of his qualification, and where any person shall be entitled to vote in respect of any property, then the name of the street, lane, and the number of the house (if any) or other description of the place where such property may be situate, shall be specified in the list; and the said overseers shall sign such lists, and shall forthwith cause a sufficient number of copies of each of the said lists to be written or printed, and shall publish copies of the said lists on or before the first day of August in such year, and shall likewise keep a copy of each of the said lists, to be perused by any person without payment of any fee, at any time between the hours of ten of the clock in the forenoon, and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days after such lists shall have been so published, and shall deliver copies thereof to all persons applying for the same, on payment of a price for each copy after the rate contained in the Table numbered (1) in the Schedule (D.) to this Act annexed (s).

Copies of lists to be kept for inspection and sale.

Town clerks to prepare and publish the lists of freemen.  
P. 283.

And keep copies for inspection and sale.

Persons omitted from the borough lists to give notice of their claims.  
P. 284, 294.

**14.** The town clerk of every city or borough shall, on or before the last day of July in each year, make out, according to the Form numbered (5) in the said Schedule (B.), an alphabetical list of all the freemen of such city or borough who may be entitled to vote in the election of a member or members to serve in any future Parliament for such city or borough, together with the respective places of their abode, and shall sign such list, and cause copies thereof to be written or printed, and shall publish the said list on or before the first day of August in such year, and shall likewise keep a copy thereof, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days after such list shall have been published, and shall deliver copies thereof to all persons applying for the same, on payment of a price for each copy after the rate contained in the Table numbered (1) in the Schedule (D.) to this Act annexed.

**15.** Every person whose name shall have been omitted in any such list of voters for any city or borough so to be made out as aforesaid, and who shall claim, as having been entitled on the *last day of July (t)* then next preceding, to have his name inserted therein, and every person desirous of being registered for a different qualification than that for which his name appears in the said list, shall, on or before the *twenty-fifth (u)* day of August in that year, give or cause to be given a notice, *according to the Form numbered (6) in the said Schedule (B.) (r)* or to the like effect, to the overseers of that parish or township in the list whereof he shall claim to have his name inserted; or if he shall claim as a

(r) Now see Registration Order, 1895, Third Schedule, Form (D.) No. 2.  
(s) This section was extended to old lodgers' claims, 41 & 42 Vict. c. 26, s. 22.

(t) Fifteenth day of July; 41 & 42 Vict. c. 26, s. 7.

(u) Twentieth; 48 & 49 Vict. c. 15, s. 3 (1).

(r) But now see Registration Order, 1895, Third Schedule, Form (H.) No. 1.

freeman of any city or borough, or place sharing in the election therewith, then he shall in like manner give or cause to be given to the town clerk of such city, borough, or place a notice according to the Form numbered (7) in the said Schedule (B.) or to the like effect; and the overseers and town clerks respectively shall include the names of all persons so claiming as aforesaid in lists, according to the *Forms numbered* (8) (y) and (9) respectively in the said Schedule (B.)

**Section 15.**

List of claimants to be made.

Pp. 284, 289.

16. It shall be lawful for any person whose name shall be on any list of voters for the time being for any city or borough, or for any person who shall have claimed to have his name inserted in any such list, upon request made by such person, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, between the tenth day of August and the last day of August, to any overseer or other officer having the custody of any poor-rate book, to inspect such poor-rate book, and make extracts therefrom for any purpose relating to any claim or objection made or intended to be made by or against such person; and every such overseer or other officer as aforesaid is hereby required, upon such request as aforesaid, to permit such inspection, and the making of such extracts, without payment of any fee (z).

Registered electors and claimants may inspect rate-books, for the purpose of any claim or objection.

17. Every person whose name shall have been inserted in any list of voters for any city or borough may object to any other person as not having been entitled on the *last* (a) day of July next preceding to have his name inserted in any list of voters for the same city or borough; and every person so objecting shall, on or before the *twenty-fifth* (b) day of August in that year, give or cause to be given a notice according to the *Form numbered* (10) in the said Schedule (B.) (c), or to the like effect, to the overseers who shall have made out the list in which the name of the person so objected to shall have been inserted, or if the person objected to shall have been inserted in the list of freemen of any city or borough, except the City of London, then to the town clerk of such city or borough; and every person so objecting shall also give or cause to be left at the place of abode of the person objected to, as stated in the said list, a notice according to the *Form numbered* (11) in the said Schedule (B.) (c); and every notice of objection shall be signed by the person objecting (d).

Persons named in the list may object to others as not being entitled to be in the list.

P. 295.

Notice of objection to be given to the overseers, or to the town clerk;

and also to the person objected to.

18. The said overseers shall include the names of all persons so objected to in a list, according to the *Form numbered* (12) in the said Schedule (B.) (e); and every town clerk shall include the names of all persons so objected to as freemen in a list, according to the *Form numbered* (13) in the said Schedule (B.); and the said overseers and town clerks respectively shall sign each of the said lists, and cause copies thereof to be written or printed, and shall publish the said list of

List of persons objected to to be made.

P. 284.

Such lists and the lists of

(y) See now Registration Order, 1895, Third Schedule, Form (K.). The words "(8) and" are repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(z) See also 41 & 42 Vict. c. 26, s. 13.

(a) Fifteenth; 41 & 42 Vict. c. 26, s. 7.

(b) Twentieth; 48 & 49 Vict. c. 15, s. 3 (1).

(c) See now Registration Order, 1895, Third Schedule, Form (I.).

(d) The grounds of objection must be specified in the notices to be given to persons objected to referred to in this section; 41 & 42 Vict. c. 26, s. 26, and 28 & 29 Vict. c. 36, ss. 7 and 8, are extended thereto.

(e) See now Registration Order, 1895, Third Schedule, Form (L.)



**Section 18.**

claimants to be published.

Copies of lists and notices of objection to be kept for inspection and sale.

P. 281.

Overseers to deliver copies of lists to the town clerk.

P. 289.

Freemen and liverymen of the City of London.

P. 283, 284.

P. 295.

persons objected to, and the said list of claimants (*f*) as aforesaid, on or before the *first day of September (g)* in the said year; and shall keep copies of the said lists, and shall allow the same and also the notices of objection which they shall have received, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days of *September (h)* in the said year, and shall deliver copies (*f*) of each of such lists to any person requiring the same, on payment of a price for each copy after the rate contained in the Table numbered (1) in the Schedule (D.) to this Act annexed.

19. The said overseers shall, on or before the *twenty-ninth (i)* day of August in every year, deliver to the said town clerk a copy of the said list of voters, made out by them as aforesaid, and a copy of the said list of persons who shall have claimed as aforesaid, and a copy of the list of persons objected to as aforesaid.

20. For providing a list of such of the freemen of the City of London as are liverymen of the several companies entitled to vote in the election of a member or members to serve in Parliament for the City of London, the secondaries of the said city shall, on or before the twentieth day of July in every year, issue precepts to the clerks of the said livery companies requiring them to make out or cause to be made out, at the expense of the respective companies, an alphabetical list, according to the form numbered (1) in the Schedule (C.) to this Act annexed, of the freemen of London, being liverymen of the said respective companies, and entitled to vote in such election; and every such clerk shall sign such list, and transmit the same, with two printed copies thereof, to the secondaries, on or before the last day of July, who shall forthwith fix one such copy in the Guildhall and one in the Royal Exchange of the said city, there to remain fourteen days; and the clerks of the said livery companies shall cause a sufficient number of copies of such lists of freemen and liverymen of their respective companies to be printed, at the expense of the respective companies, and shall keep and allow the same to be perused by any person without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during fourteen days next after such lists shall have been published, and shall deliver the same to any person applying for the same, on payment of a price for each copy after the rate contained in the table numbered (1) in the Schedule (D.) to this Act annexed; and every person whose name shall have been omitted in any such list of freemen and liverymen, and who shall claim to have his name inserted therein, as having been entitled on the *last (k)* day of July then next preceding to have his name inserted in such list, shall, on or before the *twenty-fifth (l)* day of August in such year, give or cause to be given a notice according to the form numbered (2) in the said Schedule (C.), or to the like effect, to the

(*f*) Extended to lists of occupier claimants in counties, and lodgers in boroughs, by 30 & 31 Vict. c. 102, s. 30.

(*g*) Twenty-fifth day of August; 48 & 49 Vict. c. 15, s. 3 (2).

(*h*) After the said twenty-fifth day of August; 48 & 49 Vict. c. 15, s. 3 (2).

(*i*) Twenty-fifth; 48 & 49 Vict. c. 15, s. 3 (2).

(*k*) Fifteenth; 41 & 42 Vict. c. 26, s. 7.

(*l*) Twentieth; 48 & 49 Vict. c. 15, s. 3 (1).



secondaries and to the clerk of that company in the list whereof he shall claim to have his name inserted; and every person whose name shall have been inserted in any list of voters for the time being for the said city may object to any other person as not having been entitled on the last day of July then next preceeding to have his name inserted in any such livery list; and every person so objecting shall, on or before the said *twenty-fifth (l)* day of August, give to such other person, or leave at his place of abode, as described in such list, a notice according to the form numbered (4) in the said Schedule (C.), or to the like effect (*m*), and shall also give to the secondaries and to the clerk of that company in the list whereof the name of the person objected to has been inserted, notice according to the form numbered (5) in the said Schedule (C.), or to the like effect (*m*); and the secondaries shall include the names of all persons so claiming, and so objected to as aforesaid, in two several lists, according to the forms numbered (3) and (6) in the said Schedule (C.), and shall cause such last-mentioned lists to be fixed in the Guildhall and Royal Exchange of the said city on or before the *first day of September (o)*, and shall likewise keep copies thereof, and allow the same to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the fourteen days following the first publication of the said list, and shall deliver copies thereof to any person applying for the same on payment of a price for each copy after the rate contained in the Table numbered (1) in the Schedule (D.) to this Act annexed.

Section 20.

P. 265.

P. 281.

21. [*As to freeholders in Horsham and Malmesbury*] (*p*).

22. Every precinct or place, whether extra-parochial or otherwise, which shall have no overseers of the poor, shall, for the purpose of making any claim, and making out any list directed by this Act, be deemed to be within the parish or township adjoining thereto and sharing in the right of election to which such claim or list may relate; and if such parish or place shall adjoin two or more parishes or townships situated as aforesaid it shall be deemed to be within the least populous of such parishes or townships, according to the last census for the time being (*q*).

Provision as to places having no overseers.

23. Every notice, list, register, or other document herein required to be published, shall be so published, except where some other mode or place of publication is herein expressly provided, by being fixed in some public and conspicuous situation on the outside of the outer door or outer wall near the door of the buildings hereinafter named for that purpose; (that is to say,) in the case of publication by overseers, every church and public chapel in their parish or township, including places of public worship which do not belong to the Established Church, and in the case of publication by a town clerk, the town hall, or in either case, if there be no such building as is hereinbefore named for that

What shall be publication of notice.

P. 288.

(*m*) But such notice must now state specifically the grounds of objection, and 28 & 29 Vict. c. 36, ss. 7 and 8, shall extend to such objection; 41 & 42 Vict. c. 26, s. 26.

(*o*) Twenty-fifth day of August; 48 & 49 Vict. c. 15, s. 3 (2).

(*p*) Repealed, Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(*q*) Overseers to be appointed for extra-parochial places, and such places to be separate parishes for purposes of registration; Extra-parochial Places Act, 1857 (20 Vict. c. 19); Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 27.

**Section 23.**

Time for which publication shall be.

Fresh notices, etc., to be put up in place of any destroyed, etc.

Penalty for destroying, etc., notices, etc.

List not invalidated by imperfect publication.

If no list made out or published, former list to be in force.

Lord Chief Justice and judges of assize to appoint barristers for revising lists.  
P. 311.

purpose, then in some public and conspicuous situation within the parish or township, city, borough, or place respectively (*c*).

24. In all cases in which any notice, list, register, or other document shall, pursuant to the provisions aforesaid, be affixed on or near the door of any church, chapel, town hall, or other place, the same shall continue so fixed for a period including two consecutive Sundays at the least next after the day on or before which the same is hereinbefore required to be published; and in case the same shall be destroyed, mutilated, effaced, or removed before the expiration of such period, the party hereinbefore required to publish the same as aforesaid shall, as soon as conveniently may be, publish in like manner in its place another notice, list, register, or other document, to the like purport and effect with the notice, list, register, paper, or document so destroyed, mutilated, effaced, or removed.

25. Every person who shall wilfully destroy, mutilate, efface, or remove any notice, list, register, or other document so affixed as aforesaid, during the period during which the same is hereinbefore required to remain so affixed, shall for every such offence forfeit any sum not exceeding forty shillings nor less than ten shillings (*s*) to any person who will sue for the same, to be recovered in a summary manner before any two justices of the peace.

26. No list shall be invalidated by reason that it shall not have been affixed in every place and for the full time hereinbefore required for publication thereof, but the barrister shall proceed to revise and adjudicate upon every such list which shall have been affixed in any place and for any part of the time hereinbefore mentioned in that behalf; but nothing herein contained shall be construed to exempt the overseer, town clerk, or other person charged with the duty of publishing such list as aforesaid from the penalties of his neglect or wilful default (*t*).

27. In case no list of voters shall have been made out for any parish, township, or place in any year, or in case such list shall not have been affixed in any place hereinbefore mentioned in that behalf, the register of voters for that parish, township, or place then in force shall be taken to be the list of voters for that parish, township, or place for the year then next ensuing, and the provisions herein contained respecting any such list of voters shall be taken to apply to such register as aforesaid.

28. The Lord Chief Justice of the Court of Queen's Bench (*u*) shall, in the month of July or August in every year, appoint so many barristers as he shall deem necessary to revise the lists of voters for that year for the county of Middlesex, and for the city of London, the city of Westminster (*x*), and the several boroughs in the county of Middlesex, and the senior judge for the time being in the commissions of assize for every other county (*y*) shall, during the summer circuit in every year,

(*c*) See *Hildred v. Ingram* (1895), 64 L. J. M. C. 57; and as to further publication in post and telegraph offices, 41 & 42 Vict. c. 26, s. 9; extended to counties, 48 & 49 Vict. c. 15, s. 1.

(*s*) But see the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 4.  
(*t*) See *post*, ss. 51, 97. (*u*) Of England; 44 & 45 Vict. c. 68, s. 5.

(*x*) Repealed by Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(*y*) Named in the commission of assize for the counties within any circuit, who actually travel that circuit or any part thereof during the summer circuit in any year; 49 & 50 Vict. c. 42, s. 1, practically

## Section 28.

appoint so many barristers as he shall deem necessary to revise the lists of voters for that year for every such county, or for the ridings, parts, and divisions of every such county, and for the several cities and boroughs in every such county, and for every city and town, and county of a city and town, next adjoining to any such county; and the town and county of the town of Kingston-upon-Hull shall for this purpose be considered as next adjoining to the county of York, and the town of *Berwick-upon-Tweed* (a) and the town and county of the town of Newcastle-upon-Tyne as next adjoining to the county of Northumberland, and the city and county of the city of Bristol as next adjoining to the county of Somerset (a); and the said Lord Chief Justice and judge respectively shall in every year have power to appoint one or more barristers to revise the lists for that year for the same county, city, or borough, or other place as aforesaid, or one barrister only to revise the lists for several counties, cities, boroughs, and other places as aforesaid: Provided always, that, except as is hereinafter provided, no greater number (b) of barristers shall be so appointed in any year than as follows, (that is to say,) for the county of Middlesex, and for the city of London, the city of Westminster, and the boroughs in the county of Middlesex, three; for the counties, cities, boroughs, and places within the Home Circuit, ten; for the counties, cities, boroughs, and places within the Western Circuit, fourteen; for the counties, cities, boroughs, and places within the Oxford Circuit, twelve; for the counties, cities, boroughs, and places within the Midland Circuit, eleven; for the counties, cities, boroughs, and places within the Norfolk Circuit, eight; for the counties, cities, boroughs, and places within the Northern Circuit, fifteen; for the counties, cities, boroughs, and places within the North Wales Circuit, six; for the counties, cities, boroughs, and places within the South Wales Circuit, six (c): Provided also that no barrister shall be so appointed who shall be of less than three (c) years' standing, or (d) a member of Parliament, or who shall hold any office or place of profit under the Crown (g), except the office of recorder of any city or borough; but no such barrister shall be so appointed for any city or borough of which he shall be the recorder (h); and that no barrister appointed as aforesaid shall for eighteen months from the time of his appointment be eligible to serve in Parliament for any county, riding, parts, or division of a county, or for any city, borough, or other place as aforesaid for which he shall be so appointed.

29. Notwithstanding anything hereinbefore contained, if it shall appear to the Lord Chief Justice or judge who shall have appointed any

Judges to appoint additional

re-enacting a provision to the same effect, but of a temporary character only, contained in s. 1 of the Revising Barristers Act, 1885 (48 & 49 Vict. c. 57), which was intended to prevent s. 12 of the Circuits Order in Council, 1884, from being construed so as to transfer the appointment of all revising barristers to the Lord Chief Justice of England, because that order directed that all the judges should be named in every commission of assize.

(c) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(a) As to boroughs situate partly in one circuit and partly in another, see 31 & 32 Vict. c. 58, s. 25.

(b) Number may be varied by Order in Council; 36 & 37 Vict. c. 70, s. 3.

(c) Seven; 37 & 38 Vict. c. 53, s. 6.

(d) Repealed by Statute Law Revision Act, 1874, No. 2 (37 & 38 Vict. c. 96).

(g) Barristers who are election commissioners under 15 & 16 Vict. c. 57, are excepted from this disqualification by 29 & 30 Vict. c. 54.

(h) Superseded by 45 & 46 Vict. c. 50, s. 163 (6), and repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54.)



**Section 29.**

barristers in  
case of need.  
P. 313.

barrister or barristers under this Act to revise any lists of voters, that by reason of the death, illness, or absence of any such barrister or barristers, *or by reason of the insufficiency of the number of such barristers* (i), or from any other cause, such list cannot be revised within the period directed by this Act, it shall be lawful for such Lord Chief Justice or judge, and he is hereby required, to appoint one or more barrister or barristers qualified as aforesaid to act in the place of or in addition to the barrister or barristers originally appointed for any county, city, or borough; and such barrister or barristers so subsequently appointed shall have the same powers and authority in every respect as if they had been originally appointed by such Lord Chief Justice or judge (k). [Proviso as to additional barristers repealed, 37 & 38 Vict. c. 53.]

Barristers may  
hold separate  
courts.

30. *Where two or more barristers shall be appointed for the same county, riding, parts, or division of a county, or for the same city or borough, they may hold separate courts at the same time and place for the despatch of business, or may hold separate courts at different times and places, as shall be deemed most expedient (l).*

Barrister to  
notify his  
appointment  
to clerk of the  
peace and town  
clerks, who are  
to transmit to  
him abstracts  
and lists.

Pp. 283, 316.

31. Every such revising barrister shall notify his appointment to the clerk of the peace of every county, and to the town clerk of every city and borough of which he shall be appointed to revise the lists; and each clerk of the peace shall as soon as possible transmit an abstract of the number of persons objected to by the overseers and by other persons in each parish and township in and for the same county, and the town clerk of every city or borough shall as soon as possible transmit an abstract of the said several lists of claimants, and the list of persons objected to, in each parish or township in and for the same city or borough, to the said barrister, in order that proper times and places for holding courts for the revision of such lists respectively may be appointed.

Barristers to  
hold courts  
for revising  
lists of voters  
for counties  
within a certain  
period, and to  
give notice of  
the times and  
places of holding  
such courts to  
clerk of the  
peace, who is to  
give notice  
thereof by  
advertisement,

32. The barrister appointed to revise the list of any county, shall make a circuit and hold open courts for such revision at each of the places which now are or hereafter may be appointed as polling-places for such county, and at any other places within the said county which he shall think expedient (m) *at convenient times between the fifteenth day of September inclusive and the last day of October inclusive in the then current year* (n), and shall, *ten* (o) days at the least before the holding of the first court of revision, give notice to the clerk of the peace of the several times (p) and places at which the said courts will be holden, and of the several parishes the lists of and for which will be revised at each of the said courts; and the said clerk of the peace shall forthwith cause public notice

(i) Repealed by 36 & 37 Vict. c. 53, s. 5.

(k) Additional barristers may be appointed under 49 & 50 Vict. c. 42, as amended by 51 & 52 Vict. c. 10, ss. 9, 10.

(l) Repealed by Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(m) See 30 & 31 Vict. c. 102, s. 34; 48 & 49 Vict. c. 15, s. 4 (2), (3), (4); and 51 & 52 Vict. c. 10, s. 4 (2) (g).

(n) Or within the same period within which a court may be held for the revision of the lists of voters within a parliamentary borough; 48 & 49 Vict. c. 15, s. 4 (1): that is between September 8th and October 12th both inclusive; 51 & 52 Vict. c. 10, s. 6, which also requires that the lists shall be revised as soon as possible after September 7th.

(o) Seven; 48 & 49 Vict. c. 15, s. 4 (1).

(p) As to evening sittings, see 36 & 37 Vict. c. 70, s. 4, and 48 & 49 Vict. c. 15, s. 4.



thereof to be given by advertisement in one or more of the newspapers circulating within the said county, and shall cause a sufficient number of copies of the said notice to be written or printed, and shall deliver or send a copy thereof to the overseers of every parish or township, and require them to publish the said copy of the said notice, and to attend at the court therein appointed for the revision of the list of voters relating to their said parish or township, and the said overseers shall forthwith publish the said copy of the said notice accordingly.

**Section 32.**

and to the  
overseers.  
Pp. 285, 316.

33. The barrister or barristers appointed to revise the lists of voters for any city or borough shall hold an open court or courts for that purpose within such city or borough, and also within every place sharing in the election for such city or borough, *between the fifteenth day of September inclusive and the last day of October (q) inclusive* in the then current year, and such barrister or barristers shall, seven days at the least before holding any such court or courts, give notice to the town clerk of such city or borough of the time and place of holding the same; and if such barrister shall, in his discretion, deem it expedient to hold his courts at different times and places within the said city or borough, the said barrister shall in such case give notice to the said town clerk of such times and places so appointed, and of the parishes allotted to each court; and the town clerk shall forthwith publish a notice of the time and place of the holding of every such court as aforesaid on the town hall, and on every church and chapel within such city or borough, or, if there be no church or chapel or town hall therein, then in some public and conspicuous place therein.

Barristers to hold courts for revising the lists of voters for boroughs, and give notice thereof to the town clerk, who is to publish the same.  
Pp. 285, 316.

34. The clerk of the peace of every county, at the opening of the first court to be so holden as aforesaid in and for the same county, shall deliver or cause to be delivered to the said barrister or barristers all the lists of voters for the then current year, with the marginal additions as aforesaid, and lists of persons objected to in the said year, relating to the said county, and also one or more printed copies of the register of voters then in force for the said county; and the overseers of every parish and township shall attend the court to be holden for revising the lists relating to their parish or township, and shall deliver to the barrister or barristers holding such court the original notices of claim and notices of objection given to them as aforesaid; and the said clerk of the peace and overseers shall (if required) answer upon oath all such questions as such barrister or barristers may put to them, and produce all documents, papers, and writings in their possession, custody, or power touching any matter herein mentioned (r).

In counties clerks of the peace to attend the first court, and overseers to attend the courts for their respective districts and parishes, and produce lists of voters, registers notices of claims and objections, and answer questions, and produce documents, etc.  
P. 285.

35. The town clerk of every city or borough, and the several overseers for the time being of every parish or township therein, and in the City of London the secondaries and the clerks of the several livery companies of such city, shall attend the first court to be holden before every such barrister for every such city or borough, unless they shall have been respectively required by notice to attend at some other court, in which case they shall attend the said court as required; and the said overseers, town clerks, and secondaries respectively shall, at the opening

In boroughs and London, town clerks, overseers, and secondaries and clerks of companies, to attend the courts, to produce lists, notices and rates, and

(q) Altered to September 8th and October 12th, both inclusive; 31 & 32 Vict. c. 10, s. 6, which also requires that the lists shall be revised as soon as possible after September 7th.

(r) As to production of rate books in counties, see 31 & 32 Vict. c. 38, s. 28; and as to summoning overseers in counties, *ibid.* s. 29.

**Section 35.**

answer questions, etc.

Pp. 286, 289.

Power of barrister to require attendance of overseer of past year, and assessor and collector, etc., of taxes, who shall answer upon oath all questions put to them.

P. 318.

County voters residing out of the polling district to which the parish wherein their qualification is situate belongs, may be registered to vote in another polling district, on making a claim before the revising barrister.

P. 339.

Barrister to have power to insert in the county lists the names of claimants omitted by the overseers on proof of claim and qualification.

P. 350.

of the said court, deliver to the said barrister the several lists so made by them respectively as aforesaid (s), and also the original notices of claim and of objection received by them as aforesaid; and the said overseers shall also produce at the said court all rates made for the relief of the poor of their respective parishes or townships between the *sixth day of April (t)* in the year then last past and the last day of July in the then present year: and the said town clerks, overseers, secondaries, and clerks respectively shall answer upon oath all such questions as any such barrister may put to them or any of them, and produce all documents, papers, and writings in their possession, custody, or power touching any matter necessary for revising the list of voters; and every such barrister shall have power to require any assessor, collector of taxes, or other officer having the custody of any tax assessment or duplicate, or any overseer or overseers of a past year, or other person having the custody of any poor rate of the then current or any past year, or any relieving officer, and in the City of London the Chamberlain or his deputy, to attend before him at any court to be holden by him in pursuance of this Act, and they shall attend accordingly, and answer upon oath all such questions as such barrister may put to them (u).

**36.** Any person whose name shall appear in the list of voters of any parish or township in and for any county, and whose place of abode, as stated in such list, shall not be within the polling district at which the said parish or township shall be allotted to poll, but within the same county, shall be at liberty to make his claim before the revising barrister to vote at the polling place of the district wherein his said place of abode may be situate; and any person whose name shall appear in any list as aforesaid, and whose place of abode, as stated in such list, shall not be within the same county, shall be at liberty in like manner to make his claim to vote at the polling place of any district within the same county; and every such person shall make his claim in writing under his hand, and such claim shall be delivered to and verified before the revising barrister holding his court for the revision of the list of voters in which the name of such person shall appear as aforesaid, and it shall then be lawful for the said barrister to insert in the said list, against the name of such person so claiming as aforesaid, the name of the polling place at which such person shall be registered to vote; and such person so registered shall be admitted to vote at every contested election for the said county at the said last-mentioned polling place, and not elsewhere, anything in the said recited Act to the contrary notwithstanding.

**37.** If any person who shall have given to the overseers of any parish or township due notice of his claim to have his name inserted in the list of persons entitled to vote in the election of a knight or knights of the shire shall have been omitted by such overseers from such list, it shall be lawful for the revising barrister, upon the revision of such list, to insert therein the name of the person so omitted, in case it shall be proved to the satisfaction of such barrister that such person gave due notice of such his claim to the said overseers, and that he was entitled

(s) Including occupiers' list in counties; 31 & 32 Vict. c. 58, s. 19, repealed by 48 & 49 Vict. c. 15, and replaced by s. 6 (2) of that Act.

(t) Fifth day of January; 11 & 12 Vict. c. 90.

(u) As to production of rate books in counties, see 31 & 32 Vict. c. 58, s. 28; and as to summoning overseers in counties, *ibid.* s. 29.

on the *last* (x) day of July then next preceding to be inserted in the said list of voters (y). **Section 37.**

38. The revising barrister shall insert (y) in any list of voters for any city or borough the name of every person omitted who shall be proved to the satisfaction of such barrister to have given due notice of his claim to be inserted in such list, and to have been entitled on the *last* (a) day of July then next preceding to have his name inserted therein in respect of the qualification described in such notice of claim (b). Power of barrister to insert names of claimants in lists of borough voters. P. 319.

39. It shall be lawful for any person whose name shall be on any list of voters for any county, city, or borough to oppose the claim of any person so omitted as aforesaid to have his name inserted in any list of voters for the same county, city, or borough; and such person intending to oppose any such claim shall, in the court to be holden as aforesaid for the revision of such list, and before the hearing of the said claim, give notice in writing to the revising barrister of his intention to oppose the said claim, and shall thereupon be admitted to oppose the same, by evidence or otherwise, without any previous or other notice, and shall have the same rights, powers, and liabilities as to costs, appeal, and other matters relating to the hearing and determination of the said claim, as any person who shall have duly objected to the name of any other person being retained on any list of voters, and who shall appear and prove the requisite notices as hereinafter mentioned (c). Any person on list of voters may object to claimants, on giving notice to revising barrister. P. 319.

40. *The revising barrister shall correct any mistake which shall be proved to him to have been made in any list, and shall expunge the name of every person whose qualification, as stated in any list, shall be insufficient in law to entitle such person to vote, and also the name of every person who shall be proved to him to be dead: and wherever the christian name or the place of abode, or the nature of the qualification, or the local or other description of the property of any person who shall be included in any such list, and the name of the occupying tenant thereof, shall be wholly omitted in any case where the same is by this Act directed to be specified therein, or if any person whose name is included in any such list, or his place of abode, or the nature or description of his qualification, shall, in the judgment of the revising barrister, be insufficiently described for the purpose of being identified, such barrister shall expunge the name of every such person from such list, unless the matter or matters so omitted or insufficiently described be supplied to the satisfaction of such barrister before he shall have completed the revision of such list, in which case he shall then and there insert the same in such list: Provided always, that, whether any person shall be objected to or not, no evidence be given of any other qualification than that which is described in the list of voters or claim, as the case may be, nor shall the barrister be at liberty to change the description of the qualification as it appears in the list, except for the purpose of more clearly and accurately defining the same; and where the name of any person inserted in any list of voters shall have been objected to by the overseers, or by any other person, and such other person so* Corrections which may be made by barrister in the register. P. 322.

(x) Fifteenth; 48 & 49 Vict. c. 15, s. 12.  
 (y) Revising barrister need not insert names, but may revise the list of claimants as if it were a list of voters; 48 & 49 Vict. c. 15, s. 4 (5).  
 (a) Fifteenth; 41 & 42 Vict. c. 26, s. 7.  
 (b) This section was extended to occupiers in counties and lodgers in boroughs; 30 & 31 Vict. c. 102, s. 30; but, nevertheless, by 31 & 32 Vict. c. 58, s. 20, the names of lodgers are to appear in a separate list.  
 (c) This section was extended as to occupier claimants in counties and lodgers in boroughs; 30 & 31 Vict. c. 102, s. 30.



**Section 40.** *objecting shall appear by himself, or by some one on his behalf, in support of such objection, and shall prove that he gave the notice or notices respectively required by this Act to be given by him, every such barrister shall then require it to be proved that the person so objected to was entitled on the last day of July then next preceding to have his name inserted in the list of voters in respect of the qualification described in such list; and in case the same shall not be proved to the satisfaction of such barrister, or in case it shall be proved that such person was then incapacitated by any law or statute from voting in the election of members to serve in Parliament, such barrister shall expunge the name of every such person from the said lists: Provided always, that where any person whose name appears on any list of voters for any county shall be objected to on the ground of having changed his place of abode without having sent in a fresh notice of claim, it shall be lawful for the barrister on revising the list to retain the name of such person on the list of voters, provided that such person, or some one in his behalf, shall prove that he possessed, on the last day of July, the same qualification in respect of which his name has been inserted in such list, and shall also supply his true place of abode, which the said barrister shall insert in such list (d).*

*Provision in certain cases of change of abode.*

Power of revising barristers to adjourn their courts, administer oaths, etc.

Pp. 316—318.

Persons swearing falsely, guilty of perjury.

Barrister in open court to decide upon validity of claims and objections, and verify all alterations in lists by his signature.

Pp. 321, 342.

Appeal from revising barrister's decision on points of law. P. 365.

**41.** Every revising barrister holding any court under this Act shall have power to adjourn (e) the same from time to time, and from any one place to any other place within the same county, or within the same city or borough, but so that no such adjourned court shall be holden after the last (f) day of October in any year; and at every court to be holden as aforesaid by any revising barrister the said barrister shall have power to administer an oath to all persons examined before him, and all parties, whether claiming or objecting or objected to, and all persons whatsoever, may be examined upon oath touching the matters in question; and every person taking an oath or affirmation under this Act, who shall wilfully swear or affirm falsely, shall be deemed guilty of perjury, and at the holding of such respective courts no party or other person shall appear or be attended by counsel; and every such barrister shall upon the hearing in open court finally determine upon the validity of such claims and objections, and shall for that purpose have the same powers and proceed in the same manner (except where otherwise directed by this Act) as the returning officer of any county, city, or borough, according to the laws and usages observed at elections previous to the passing of the said recited Act; and such barrister shall in open court write his initials against the names respectively expunged or inserted (g), and against any part of the said lists in which any mistake shall have been corrected or any omission supplied or any insertion made by him, and shall sign his name to every page of the several lists so settled.

**42.** It shall be lawful for any person who, under the provisions hereinbefore contained, shall have made any claim to have his name inserted in any list, or made any objection to any other person as not entitled to have his name inserted in any list, or whose name shall have

(d) This section was repealed and replaced as to boroughs by 41 & 42 Vict. c. 26, s. 28, and altogether repealed by 48 & 49 Vict. c. 15, s. 17, Schedule 1., and the borough system applied to counties by the first section of the last mentioned Act.

(e) See 36 & 37 Vict. c. 70, s. 5. (f) Twelfth; 51 & 52 Vict. c. 10, s. 6.

(g) Names expunged and inserted, and all corrections and insertions, to be read out before signing; 28 & 29 Vict. c. 36, s. 16.



been expunged from any list, and who in any such case shall be aggrieved by or dissatisfied with any decision of any revising barrister on any point of law material to the result of such case, either himself or by some person on his behalf, to give to the revising barrister in court, before the rising of the said court, on the same day on which such decision shall have been pronounced, a notice in writing that he is desirous to appeal, and in such notice shall shortly state the decision against which he desires to appeal; and the said barrister thereupon, if he thinks it reasonable and proper that such appeal should be entertained (*h*), shall state in writing the facts which according to his judgment shall have been established by the evidence in the case, and which shall be material to the matter in question, and shall also state in writing his decision upon the whole case, and also his decision upon the point of law in question appealed against; and such statement shall be made as nearly as conveniently may be in like manner as is now usual in stating any special case for the opinion of the Court of Queen's Bench upon any decision of any court of quarter sessions; and the said barrister shall read the said statement to the appellant in open court, and shall then and there (*i*) sign the same, and the said appellant, or some one on his behalf, shall at the end of the said statement make a declaration (*k*) in writing under his hand to the following effect, that is to say, "I appeal from this decision"; and the said barrister shall then endorse upon every such statement the name of the county and polling district, or city and borough, and of the parish or township to which the same shall relate, and also the christian name and surname and place of abode of the appellant and of the respondent in the matter of the said appeal, and shall sign and date such indorsement; and the said barrister shall deliver such statement, with such indorsement thereon, to the said appellant, to be by him transmitted to *Her Majesty's Court of Common Pleas at Westminster* (*j*) in the manner hereinafter mentioned; and the said barrister shall also deliver a copy of such statement, with the said indorsement thereon, to the respondent in such appeal who shall require the same.

## Section 42.

Revising barrister to prepare a statement of facts.

P. 368.

Appellant to make a declaration in writing.

Revising barrister to indorse on statement the names of parties, etc.;

and deliver a copy to appellant, to be transmitted to Court of Common Pleas, and a copy to respondent, if required.

43. In the matter of every such appeal the party in whose favour the decision appealed against shall have been given shall be the respondent; but if there be no such party, or if such party, or some one on his behalf shall in open court decline, and state in writing that he declines, to support the decision appealed against as respondent, then and in every such case it shall be lawful for the said revising barrister to name any person who may be interested in the matter of the said appeal, and who may consent, or the overseers of any parish or township, or the town clerk of any city or borough, to be, and such person so consenting, or such overseers or town clerk respectively so named, shall be deemed to be the respondent or respondents in such appeal (*k*).

Who shall be respondent on appeal.

P. 370.

(*h*) As to compelling barrister to state case, see 41 & 42 Vict. c. 26, s. 37.

(*i*) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67). The statement may be made at any time within ten days of the conclusion of the revision, so that it be made not less than four days before the first day of the Michaelmas sittings next after the decision to which it relates, and the statement need not be read in open court, but shall be submitted to the appellant, who, if he approves the same, shall sign and return it to the revising barrister; 51 & 52 Vict. c. 10, s. 6.

(*j*) The Central Office of the Supreme Court of Judicature, Royal Courts of Justice, Strand, London.

(*k*) As to making clerk of the peace or town clerk respondent on appeal, see 41 & 42 Vict. c. 26, s. 38.

**Section 44.**

Power to  
consolidate  
appeals.

P. 370.

44. If it shall appear to any revising barrister that the validity of any number of such claims or objections determined by him at any court as aforesaid depends and has been decided by him upon the same point or points of law, and the parties, or any of them aggrieved by or dissatisfied with his decision thereon, shall have given notice of an intention to appeal therefrom, it shall in such case be lawful for the said barrister to declare that the appeals against such decision ought to be consolidated, and the said barrister shall in such case state in writing the case, and his decision thereon, in manner hereinbefore mentioned, and that several appeals depend upon the same decision, and ought to be consolidated, and shall *read such statement, and (l) sign the same*, as hereinbefore mentioned, and thereupon it shall be lawful for the said barrister to name any person interested, and consenting, for and on behalf of himself and all other persons in like manner interested in such appeals, to be the appellant or respondent respectively in such consolidated appeal, and to prosecute or answer the said appeal, in like manner as any appellant or respondent might in his own case under the provisions of this Act, and the person so named appellant in such consolidated appeal, or some one on his behalf, shall at the end of the said statement, make and sign a declaration in the form or to the effect following; (that is to say.)

"I, for myself and on behalf of all the other persons who are interested as appellants in this matter, and whose names are hereunder written, do appeal against this decision, and agree to prosecute this appeal."

And the person so named respondent in such consolidated appeal, or some one on his behalf, shall in like manner make and sign a declaration in writing in the form or to the effect following; (that is to say,)

"I, for myself, and on behalf of all the other persons interested as respondents in this matter, and whose names are hereunder written, do agree to appear and answer this appeal."

And the name, and where necessary, the particulars of the qualification of every party intended to be joined in such consolidated appeal, shall be written under the aforesaid declaration of the appellant or respondent respectively to which they may respectively refer: Provided always, that it shall be lawful for the said barrister, if necessary, in any case to name the overseers of any parish or township, or the town clerk of any city or borough, to be, and they or he so named shall be, the respondents or respondent in such consolidated appeal, without any such declaration being made or signed by them or him as hereinbefore mentioned.

Overseers or  
town clerk may  
be named as  
respondents in  
consolidated  
appeals.

P. 372.

Consolidated  
appeals to be  
conducted as  
any single  
appeal, and  
decision to be  
binding on all  
the parties  
thereto.

Agreement for  
contribution to  
costs of con-  
solidated appeal  
may be made a  
rule of court.

P. 383.

45. In and with regard to every such consolidated appeal the like proceeding shall be had and taken and the like rules and regulations shall apply as in the case of any other appeal under this Act; and that every order, judgment, or decision of the *said Court of Common Pleas (m)* shall be equally valid and effectual for all the purposes of this Act, and binding and conclusive upon all the parties named in or referred to as parties to such consolidated appeal as aforesaid, and if in any case all or any of the parties to such consolidated appeal shall make or enter into any agreement as to the mode of contributing among themselves to the costs and expenses of such appeal, the said agreement may, upon the application of any party or parties thereto, be made a rule of the *said Court of Common Pleas (m)*, if the said court shall think fit: Provided always, that if any such consolidated appeal shall not be duly prosecuted

(l) See note to s. 42.

(m) High Court of Justice (Queen's Bench Division).

or answered, it shall be lawful for the said *Court of Common Pleas (m)*, or for the *Lord Chief Justice or any judge of the said court (m)*, to give to any party or parties interested in such appeal, upon his or their application, the conduct and direction of the said appeal, or of the answer thereto respectively, as the case may require, instead of or in addition to any person named as aforesaid as appellant or respondent, and in such manner and upon such terms as the said court or Lord Chief Justice or judge may think fit and order, or to make such other order in the case as may seem meet: Provided also, that if after the said barrister shall as aforesaid have declared that the appeal in any case ought to be with others consolidated, any party interested in such appeal shall object and refuse to be a party to or to be bound by any such consolidated appeal, then and in such case the appeal in which such person is interested may proceed separately, but such person so refusing or objecting shall be liable to pay costs to the other party, but shall not be entitled to receive any costs of or in such appeal, unless the said court otherwise order.

46. If in any case it shall appear to any revising barrister holding any court as aforesaid that any person shall under this Act have made or attempted to sustain any groundless or frivolous and vexatious claim or objection (*n*) or title to have any name inserted or retained in any list of voters, it shall be lawful for the said barrister, in his discretion, to make such order (*o*) as he shall think fit for the payment by such person of the costs or of any part of the costs of any person or persons in resisting such claim or objection or title; and in every such case the said barrister shall make an order in writing specifying the sum which he shall order to be paid for such costs, and by and to whom and when and where the same sum shall be paid, and shall date and sign the said order, and deliver it to the person or persons to whom the said sum shall therein be ordered to be paid: Provided always, that the said sum so ordered to be paid by way of costs shall not in any case exceed the sum of *twenty shillings (p)*: Provided also, that such order for the payment of costs as aforesaid may be made in any case, notwithstanding any party shall have given notice of his intention to appeal against any decision of the revising barrister in the same case; but in case of such appeal the said order for the payment of costs shall be suspended, and shall abide the event of such appeal, unless the court of appeal shall otherwise direct; but no appeal shall be allowed or entertained against or only in respect of any such order for the payment of costs: Provided also, that whenever any revising barrister shall have made any such order for the payment of any sum of money for costs by any person who shall have made any objection as aforesaid, it shall not be lawful for the said barrister to hear or admit proof of any other objection or notice of objection made or signed by the same person until the sum of money so ordered to be paid by him for costs be paid to the person entitled to receive the same, or deposited in the hands of the said barrister in court, for the use of the person so entitled (*q*).

47. The said lists of voters for each county, signed as aforesaid, shall be forthwith transmitted by the revising barrister to the clerk of the

## Section 45.

If consolidated appeal is not duly prosecuted or answered, the court or a judge may give conduct of it or of the answer to other persons.

P. 372.

If party interested shall refuse to be a party, his appeal may proceed separately.

Costs in such cases.

Power to barrister to give costs in certain cases to parties claiming or objecting.  
P. 356.

Such costs not to exceed 5.

Costs may be given notwithstanding notice of appeal, but shall abide the event of such appeal.

No appeal as to costs only.

If costs be awarded against any party objecting, no other objection by him shall be heard until they are paid.

County lists to be transmitted to clerk of the

(*n*) See as to costs of objections, other than overseers' objections, 41 & 42 Vict. c. 26, s. 27, (3).

(*o*) See as to time of making such order, 28 & 29 Vict. c. 36, s. 13.

(*p*) Five pounds; 28 & 29 Vict. c. 36, s. 14.

(*q*) This last proviso is not to be taken to be repealed by s. 13 of 28 & 29 Vict. c. 36. See proviso to that section.



**Section 47.**

peace, and to be  
by him copied  
into a book.  
P. 358.

peace of the same county, and the clerk of the peace shall keep the said lists among the records of the sessions, and shall forthwith cause the said lists to be copied, and printed in a book or books, arranged with the names in each parish or township in strict alphabetical order (*r*), according to the surnames, and with every polling district in alphabetical order, and with every parish or township within such polling district likewise in the same order, and shall, after the last list for each polling district, insert a list in like alphabetical order for all persons whose names shall not appear in any of the said lists for such polling district, but who shall in manner hereinbefore mentioned have been registered by the revising barrister to vote at the polling place of such last mentioned district, and shall in the said book prefix to every name its proper number, beginning the numbers from the first name, and continuing them in a regular series down to the last name : Provided always, that a number as aforesaid shall be prefixed to the name of every person in every such list inserted after the last list for any polling district as aforesaid ; and no number, but an asterisk only, shall be prefixed to the name of the same person in the list of the parish or township in which his name originally appeared ; and every such book shall be printed and arranged in such manner and form that the list of voters of and for each and every separate parish or township contained therein may be conveniently and completely cut out or detached from all the other lists of voters contained in the same book, so that all the lists for every or any polling place, or the list of every or any single parish or township, may be ready for the purposes of this Act or for sale ; and the said clerk of the peace shall sign and deliver the said book or books on or before the last day of *November* (*s*) in the then current year to the sheriff of the county (*t*), to be by him and his successors in the office of sheriff safely kept, for the purposes hereinafter and in the said recited Act mentioned.

Clerk of the  
peace to sign  
and deliver a  
copy to the  
sheriff.

P. 362.

Borough lists to  
be delivered to  
town clerks, and  
copied into  
books.

P. 358.

Town clerks to  
sign and deliver  
same to return-  
ing officers.

P. 362.

48. The list of voters for each city or borough, signed as aforesaid, shall be forthwith delivered by the revising barrister to the town clerk of the same city or borough ; and the said town clerk shall forthwith cause the said lists to be copied and printed in a book ; and in the said book the said lists shall be arranged and every name numbered according to the directions aforesaid with regard to the county lists, so far as the same are applicable (*u*), and the said town clerk shall sign and deliver the said book on or before the said last day of *November* (*s*) to the returning officer of the same city or borough (*t*), to be by him and his successors as returning officer safely kept for the purposes hereinafter mentioned.

Copies of regis-  
ters to be printed  
for sale.

P. 363.

49. [*Books to be the register of voters for the ensuing year*] (*x*). The clerk of the peace of every county, and the town clerk of every city or

(*r*) Where municipal borough or urban district is co-extensive with electoral division or divisions of parliamentary county, county authority may order lists to be made out according to streets ; 51 & 52 Vict. c. 10, s. 4 (3).

(*s*) December ; 30 & 31 Vict. c. 102, s. 38.

(*t*) Copy register to be also sent to Home Office within twenty-one days after February 1st ; 31 & 32 Vict. c. 58, s. 37.

(*u*) Borough lists to be arranged to correspond with polling districts, 30 & 31 Vict. c. 102, s. 34 ; and according to streets, 41 & 42 Vict. c. 26, s. 21, and 51 & 52 Vict. c. 10, s. 5.

(*x*) Replaced by 30 & 31 Vict. c. 102, s. 38, and repealed by the Statute Law Revision Act, 1874 (37 & 38 Vict. c. 35).



borough respectively, shall keep printed copies of the said register for such county, city, or borough, and shall deliver such copies of such register, or of any part thereof, to any person applying for the same, upon payment of a price after the rate contained in the Table numbered (2) in the Schedule (D.) to this Act annexed: Provided always, that no person shall be entitled to a copy of any part of any register relating to any parish or township without taking or paying for the whole that relates to such parish or township.

## Section 49.

50. Any assessor or collector of taxes, or other officer, or any overseer or overseers of the poor, or other persons having the custody of any poor-rate book for any past year, or any assistant overseer or relieving officer, who shall wilfully refuse or neglect, when duly required by summons under the hand of any revising barrister, to attend before such barrister at any court to be holden as aforesaid, according to the exigency of such summons, shall, upon proof before him of the service of such summons, be liable to pay by way of fine for every such offence a sum of money not exceeding five pounds nor less than twenty shillings, to be imposed by and at the discretion of the said barrister holding any such court as aforesaid (x).

Assessors and other officers neglecting to attend when summoned by revising barrister, liable to be fined. Pp. 318, 320.

51. Any overseer of any parish or township who shall wilfully refuse or neglect to make out any list, or who shall wilfully neglect to insert therein the name of any person who shall have given due notice of claim, or who in making out the list of voters for any city or borough shall wilfully and without any reasonable cause omit the name of any person duly qualified to be inserted in such list, or who shall wilfully and without reasonable cause insert in such list the name of any person not duly qualified, or who shall wilfully refuse or neglect to publish any notice or list, or copy of the part of the register of voters relating to his parish or township, at the time and in the manner required by this Act, or who shall wilfully refuse or neglect to deliver to the clerk of the peace the copy of the lists of claimants and of persons objected to, and the copies of the register, as required by this Act, or who shall wilfully refuse or neglect to deliver to the town clerk of the city or borough the copies of the several lists as required by this Act, or who shall wilfully refuse or neglect to attend the court for revising the lists of voters of his parish or township, or to attend any revising barrister when required by any summons as aforesaid, or who shall wilfully refuse or neglect to deliver to the barrister or barristers holding any such court the several lists to be made out by them as aforesaid, or who shall be wilfully guilty of any other breach of duty in the execution of this Act (y), shall for every such offence be liable to pay by way of fine a sum of money not exceeding five pounds nor less than twenty shillings, to be imposed by and at the discretion of any barrister holding any court for the revision of any list of the parish or township of such overseer: Provided always, that nothing herein contained as to any fine as aforesaid, shall affect or abridge any right of action against any overseer or other person liable to any fine as aforesaid, or any liability such overseer or other person may incur under or by virtue of this Act or the said recited Act (z).

Power to barristers to fine overseers for neglect of duty. Pp. 290, 319.

(x) See also 41 & 42 Vict. c. 26, s. 36.

(y) See also 30 & 31 Vict. c. 102, ss. 28, 29; 31 & 32 Vict. c. 58, ss. 28, 29; 41 & 42 Vict. c. 26, s. 29; 48 & 49 Vict. c. 3, s. 9 (3).

(z) See 2 & 3 Will. 4, c. 45, s. 76, and s. 97 of this Act, *post*.

**Section 52.**

Fines how to  
be paid.

P. 321.

52. Every revising barrister, when and so often as he shall impose any such fine as aforesaid, shall at the same time in open court, by an order in writing under his hand, stating the sum payable for such fine, direct by and to whom and when the same shall be paid, and the person to whom the said sum shall be so ordered to be paid shall receive the same, and in every case where the offence for which the said fine shall have been so imposed shall relate to the formation of the register of voters for any county he shall pay over the sum so received by him to the clerk of the peace of the same county, and in every case where such offence shall relate to the formation of the register of voters for any city or borough he shall pay over the sum so received by him to the town clerk of the same city or borough, or to the said secondaries, as the case may require (a).

Clerk of the  
peace and town  
clerk to account  
for and pay over  
all moneys  
received by  
them.

Pp. 291, 363.

53. The clerk of the peace of every county and the town clerk of every city or borough respectively shall keep an account of all moneys to be received by him or them for or on account of the sale of any copies of the register as aforesaid, or for or by way of fine imposed as aforesaid; and the said clerk of the peace shall pay over or account for all such moneys received by him to the treasurer of the same county, to be applied in aid of the county rate; and the said town clerk shall pay over or account for all such moneys so received by them to and amongst the overseers of the several parishes and townships within every city or borough; and the share of each parish or township shall be calculated as nearly as may be according to the same relative proportion as the number of persons whose names shall appear in the list of the said parish or township shall bear to the number in all the other lists upon the same register, and the said moneys, together with all moneys received by any overseers from the sale by them of any lists, shall be paid and applied by the said overseers in aid of the moneys collected for the relief of the poor (b).

Expenses of  
clerks of the  
peace, how to be  
defrayed.

P. 363.

54. An account of all expenses (c) incurred by any clerk of the peace of any county in carrying into effect the provisions of this Act shall be laid before the *justices of the peace at the next quarter sessions* (d) after such expenses shall have been incurred, and the said *justices of the peace* shall make their order upon the treasurer of the said county for the payment of such expenses, or such part thereof as they shall allow, to the said clerk of the peace, out of the public stock of the said county.

Expenses of  
town clerks and  
returning  
officers, how to  
be defrayed.

P. 363.

55. All the expenses (c) incurred by any town clerk or returning officer of any city or borough in carrying into effect the provisions of this Act shall be defrayed out of the moneys to be collected for the relief of the poor in the several parishes and townships within the same city or borough; and the sum to be contributed by every such parish or township, shall be calculated, as nearly as may be, according to the same relative proportion as the number of persons whose names

(a) This section was extended to fines of witnesses; 41 & 42 Vict. c. 26, s. 36.

(b) This section was extended to moneys received for fines from witnesses by 41 & 42 Vict. c. 26, s. 36.

(c) Extended to include *charges for trouble, care, and attention* in the performance of the services and duties imposed by this Act, and 30 & 31 Vict. c. 102, under s. 31 of the later Act, and imposed by 48 & 49 Vict. c. 3, and by 48 and 49 Vict. c. 15, under s. 8 of the last-mentioned Act. See also 41 & 42 Vict. c. 26, s. 38, as to expenses in relation to appeals.

(d) County council; 51 & 52 Vict. c. 41, s. 3 (xii), and s. 68(2).

shall appear in the list of the said parish or township shall bear to the number in all the other lists upon the same register; and an account of all the said expenses so incurred, and also an account of the sum to be contributed for defraying the same by each parish or township as aforesaid, shall, as soon as may be after the said expenses shall have been so incurred, be laid before the common council or town council of the said city or borough, or if there be no such council in any city or borough, then before the justices of the peace at the quarter sessions to be holden in and for the county in which the same city or borough is situate; and the said council or the said justices respectively shall, when they allow the said accounts, make and give to the said town clerk a certificate of the total sum allowed by such council or justices in respect of the said expenses, and also a certificate of the sum to be paid by and as the contribution of each of the said parishes or townships towards defraying the same; and thereupon it shall be lawful for the overseers of every such parish or township, and they are hereby required, out of the first moneys to be collected for the relief of the poor, to pay the sum in such certificate mentioned to be paid by and as the contribution of the said parish or township to the said town clerk (e).

**Section 55.**

56. Provided always that throughout this Act the words "town clerk" shall not be understood to mean or apply to the town clerks of the cities of London or *Westminster* (f) or to the town clerk of the borough of Southwark, but throughout this Act by the words "town clerk" shall be understood in regard to the city of London the secondaries of the said city, and in regard to the city of *Westminster* the high bailiff of the said city (f), and in regard to the borough of Southwark the high bailiff of the said borough (g).

Meaning of the words "town clerk" in case of London and Southwark.

P. 282.

57. An account (h) of all expenses incurred by the overseers of every parish or township in carrying into effect the provisions of this Act, shall be laid before the revising barrister at the court at which the list of voters for such parish or township shall be revised; and the said barrister shall sign and give to the said overseers a certificate (i) of the sum which he shall allow to be due to them in respect of the said expenses; and it shall be lawful for the said overseers to receive the sum so certified to be due to them from and out of the first moneys thereafter to be collected for the relief of the poor in the same parish or township (l).

Expenses of overseers, how to be defrayed. P. 291.

58. Notwithstanding anything in the said recited Act contained (m), it shall not be necessary for or required of any person claiming or upon

No payment necessary by

(e) A summary remedy for the recovery of these expenses is given by 31 & 32 Vict. c. 58, s. 23.

(f) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67). Westminster is now a parliamentary borough under 48 & 49 Vict. c. 23, s. 6, and Sched. 4.

(g) See also *post*, s. 101; 31 & 32 Vict. c. 58, s. 18; 41 & 42 Vict. c. 26, s. 17, as to meaning of "town clerk."

(h) As to objections to items, see 31 & 32 Vict. c. 58, s. 32.

(i) Certificate of revising barrister to be conclusive; 31 & 32 Vict. c. 58, s. 32.

(l) Expenses of overseers and relieving officers in pursuance of 31 & 32 Vict. c. 58, to be defrayed in like manner; see s. 31 of that Act. See also 41 & 42 Vict. 26, s. 30; 45 & 46 Vict. c. 50, s. 48; 51 & 52 Vict. c. 10, ss. 8, 11.

(m) See 2 & 3 Will. 4, c. 45, s. 56 (now repealed) which formerly required every person on giving notice to the overseers of his claim as an



**Section 58.**

persons making  
claims;  
nor by persons  
on register in  
cities and  
boroughs.

giving notice of any claim as herein or in the said recited Act mentioned to pay or cause to be paid to the overseer of any parish or township the sum of one shilling, or any other sum; nor shall any notice of claim as aforesaid be invalid by reason of such or any sum not having been paid; and no person whose name shall be upon any register of voters for any city or borough shall be therefore liable to the payment of one shilling annually, or of any other sum on that account.

59. [*Remuneration of revising barristers.* Repealed. See 51 & 52 Vict. c. 10, ss. 9, 10. *Proviso as to payment of substitutes* repealed and replaced by 37 & 38 Vict. c. 53.]

Appeals to be  
heard by the  
Court of  
Common Pleas.  
P. 367.

60. All appeals or matters of appeal from or in respect of any decision of any revising barrister entertained in manner hereinbefore mentioned shall be prosecuted, heard, and determined in and by *Her Majesty's Court of Common Pleas at Westminster* (n) according to the ordinary rules and practice of that court with respect to special cases, so far as the same may be applicable, and not inconsistent with the provisions of this Act, or in such manner and form, and subject to such rules and regulations, as the said court from time to time, by any rule or order made for regulating the practice and proceedings in such appeals, shall order and direct.

61. [*Barristers to have equal rights of practising with Serjeants.* Repealed by the Statute Law Revision Act, 1874 (No. 2), 37 & 38 Vict. c. 96.]

Notice of appeal  
to be given by  
appellant.  
P. 374.

62. Every appellant who shall intend to prosecute his appeal shall, within the first four days in the Michaelmas term (o) next after the decision to which such appeal shall relate, transmit to the *Masters of the said Court of Common Pleas* (p) the statement in writing so signed by the said revising barrister as aforesaid, and shall also therewith give or send a notice, signed by him, stating therein his intention to prosecute the said appeal, and the said appellant shall also give or send a notice, signed by him, to the respondent in the said appeal, stating his said intention duly to prosecute such appeal in the said court; and one of the masters of the said court, to be nominated for that purpose by the Lord Chief Justice of the said court (q) shall forthwith enter every appeal of which he shall have received due notice from the appellant as aforesaid in a book to be kept by him for that purpose.

Appeals to be  
entered in a  
book.

Court to give  
notice of the  
time and place  
of hearing  
appeals.

P. 369.

63. The judges of the said *Court of Common Pleas* (r) shall, as soon as may be after the fourth day of Michaelmas term (o) in every year, make arrangements for hearing the appeals entered as aforesaid, and shall appoint such certain day or days, either in term time or in time of vacation, as they may think fit and necessary, but as early as conveniently may be, for the purpose of hearing and deciding such appeals; and the said judges shall cause public notice to be given of the time and place so appointed by them for that purpose, and of the order in which such appeals will be heard (s).

elector for any county to pay them one shilling until which payment the notice of claim was not valid.

(n) The Queen's Bench Division of Her Majesty's High Court of Justice; 36 & 37 Vict. c. 66, s. 34; R. S. C. Order LXX. r. 1.

(o) Sittings of the High Court of Justice; 51 & 52 Vict. c. 10, s. 6 (2).

(p) Central Office of the Supreme Court of Judicature.

(q) Of England; see 44 & 45 Vict. c. 68, s. 25.

(r) Queen's Bench Division of the High Court of Justice.

(s) Court to sit forthwith after fourth day of Michaelmas sittings, and determine appeals continuously; 51 & 52 Vict. c. 10, s. 6 (2). See R. S. C. Order LIX. r. 1.



64. No appeal or matter of appeal whatsoever shall, in any case, except where the conduct and direction of the appeal, or of the answer thereto, shall have been given by order of the *Court of Common Pleas* (r) or of any judge thereof to any person, be entertained or heard by the said court unless notice shall have been given by the appellant to the masters of the said court at the time and in the manner hereinbefore mentioned; and no appeal shall be heard by the said court in any case where the said respondent shall not appear, unless the said appellant shall prove that due notice of his intention to prosecute such appeal was given or sent to the said respondent ten days at least before the day appointed for the hearing of such appeal: Provided always, that if it shall appear to the said court that there has not been reasonable time to give or send such notice in any case, it shall be lawful for the said court to postpone the hearing of the appeal in such case, as to the said court shall seem meet.

**Section 64.**

No appeal to be entertained unless notice given.

P. 375.

Nor where respondent does not appear unless appellant proves that notice was sent to him.

Court may postpone the hearing of any appeal.

65. No appeal or notice of appeal under this Act shall be received or allowed against any decision of any revising barrister upon any question of fact only, or upon the admissibility or effect of any evidence or admission adduced or made in any case to establish any matter of fact only: Provided always, that if the said court shall be of opinion in any case that the statement of the matter of the appeal is not sufficient to enable them to give judgment in law, it shall be lawful for the said court to remit the said statement to the revising barrister by whom it shall have been signed, in order that the case may be more fully stated.

No appeal on questions of fact or the admissibility of evidence.

P. 365.

Court may remit case to revising barrister to be more fully stated.

P. 382.

66. Every judgment or decision of the said court shall be *final and conclusive* (t) in the case upon the point of law adjudicated upon, and shall be binding upon every *Committee of the House of Commons appointed for the trial of any petition complaining of an undue election or return of any member or members to serve in Parliament* (u).

Decision of court to be final.

P. 386.

67. Whenever by any judgment or order of the said court any decision or order of any revising barrister shall be reversed or altered, so as to require any alteration or correction of the register of voters for any county, or for any city or borough, notice of the said judgment or order of the said court shall be forthwith given by the said court to the sheriff or returning officer, as the case may be, having the custody of such register, and the said notice shall be in writing under the hand of one of the masters of the said court, and shall specify exactly every alteration or correction to be made, in pursuance of the said judgment or order, in the said register; and such sheriff or returning officer respectively shall, upon the receipt of the said notice, alter or correct the said register accordingly, and shall sign his name against every such alteration or correction, in the said register, and shall safely keep and hand over to his successors every such notice received by him from the said court as aforesaid, together with the said register.

Decisions of court to be notified to the sheriff or returning officer, and register to be altered conformably.

P. 385.

68. [*Copies of decisions on appeals to be admissible in evidence.*]

69. [*Appeal pending not to affect right of voting.*]

70. It shall be lawful for the said court to make such order respecting the payment of the costs of any appeal, or of any part of such costs, as to the said court shall seem meet (x). Provided always, that it shall not be

Order for costs not to be made against or for a respondent

(r) Amended; 44 & 45 Vict. c. 68, s. 14 (appeal to Court of Appeal by special leave of High Court).

(u) Jurisdiction of committee transferred to judges; 42 & 43 Vict. c. 75.

(x) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67), because superseded by 41 & 42 Vict. c. 26, s. 38.

**Section 70.**

unless he  
appears.  
P. 383.

Costs and fines  
ordered by  
revising bar-  
rister to be paid  
may be re-  
covered by dis-  
tress and sale of  
the parties'  
goods.

P. 321.

No certiorari  
allowed for  
removal of order  
of barrister, etc.

3 Geo. 3, c. 24,  
repealed.

P. 70.

Right of voting  
in counties by  
occupiers of not  
less than 50l.

P. 100.

Successive  
occupation.

P. 100.

lawful for the said court in any case to make any order for costs against or in favour of any respondent or person named as respondent as aforesaid, unless he shall appear before the said court in support of the decision of the revising barrister in question (a).

**71.** In case any sum of money by the order of any revising barrister as aforesaid directed to be paid by any person by way of fine or for costs shall not be paid according to the terms of such order, it shall be lawful for any justice of the peace and he is hereby required, upon proof before him that a true copy of the said order hath been served upon or left at the usual place of abode of the person in the said order directed to pay such sum, and that the said sum hath been demanded of such person, and that he hath refused or neglected to pay the same, by warrant under his hand and seal to order the said sum of money, together with the costs of and attending the said warrant, to be levied by distress and sale of the goods and chattels of such person so making default which may be found within the jurisdiction of the said justice; and the overplus, if any, after the said sum of money and costs, and the charges of such distress and sale, are deducted, shall be returned, upon demand, to the owner of the said goods and chattels: Provided always, that no certiorari or other writ or process for the removal of any such order or warrant, or of any order or warrant to be made or issued on account of a false charge of personation in the manner hereinafter provided, or any proceeding thereon respectively into any of *Her Majesty's Courts at Westminster* (b), shall be allowed or granted.

**72.** And whereas doubts have arisen whether the provisions of an Act passed in the third year of the reign of His Majesty King George the Third, intituled "*An Act to prevent fraudulent and occasional votes in Elections of knights of the shire, and of members for cities and towns which are counties of themselves, so far as relates to the right of voting by virtue of an annuity or rentcharge,*" are still in force: And whereas the provisions of the said Act have become unnecessary: Be it therefore enacted, that the said Act shall be and the same is hereby repealed (c).

**73.** And whereas by the said first-recited Act (d) it is enacted, that "every male person of full age, and not subject to any legal incapacity, who shall occupy as tenant any lands or tenements for which he shall be bona fide liable to a yearly rent of not less than fifty pounds, shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament for the county, or for the riding, parts or division of the county in which such lands or tenements shall be respectively situate:" And whereas it is also thereby enacted, that "no person shall be so registered in any year in respect of any lands and tenements held by him as such occupier and tenant as aforesaid unless he shall have been in the actual possession thereof for twelve calendar months next previous to the last day of July in such year:" Be it declared and enacted, that the lands and tenements in respect of the occupation of which at a yearly rent of not less than fifty pounds any person shall be so entitled to be registered in any year, and to vote in the election of a knight or knights of the shire as aforesaid, shall not be required

(a) See 41 & 42 Vict. c. 26, s. 38, as to costs.

(b) The Supreme Court of Judicature.

(c) Repealed by the Statute Law Revision Act, 1874 (No. 2) (37 & 38 Vict. c. 96).

(d) *I.e.*, 2 & 3 Will. 4, c. 45, s. 20.

to be the same lands and tenements, but may be different lands and tenements, **Section 73.**  
 rented and occupied as aforesaid in immediate succession by such person during the twelve calendar months next previous to the last (e) day of July in such year; and that where any such lands and tenements shall be jointly rented and occupied by more persons than one, each of such joint occupiers shall be entitled to be registered and vote in such election as last aforesaid in respect of the lands and tenements so jointly rented and occupied, in case the yearly rent for which they shall be bona fide liable in respect of such lands and tenements shall be of an amount which, when divided by the number of such occupiers, shall give a bona fide rent of not less than fifty pounds for each and every such occupier, but not otherwise (f).

Joint occupiers may vote.

P. 163.

**74.** And whereas by the said first-recited Act it is enacted (g), "that no person shall be allowed to have any vote in the election of a knight or knights of the shire, for or by reason of any trust estate or mortgage, unless such trustee or mortgagee be in actual possession or receipt of the rents and profits of the same estate, but that the mortgagor or cestui que trust in possession shall and may vote for the same, notwithstanding such mortgage or trust:" And whereas it is also thereby enacted (h), "that no person shall be registered in any year in respect of his estate or interest in any lands or tenements as freeholder, copyholder, customary tenant, or tenant in ancient demesne, unless he shall be in actual possession or in receipt of the rents and profits thereof to his own use for six calendar months at least previous to the last day of July in such year:" And whereas doubts have arisen as to the true intent and meaning of the said first-mentioned enactment in certain cases: Be it therefore declared and enacted, that (i) no mortgagee of any lands or tenements shall have any vote in the election of a knight or knights of the shire, or in the election of a member or members to serve in any future Parliament for any city or borough in which freeholders now have a right to vote, for or by reason of any mortgage estate therein, unless he be in the actual possession or receipt of the rents and profits thereof, but that (i) the mortgagor in actual possession or in receipt of the rents and profits thereof shall and may vote for the same, notwithstanding such mortgage; and that (i) no trustee of any lands or tenements shall in any case have a right to vote in any such election for or by reason of any trust estate therein, but that (i) the cestui que trust in actual possession or in receipt of the rents and profits thereof, though he may receive the same through the hands of the trustee, shall and may vote for the same, notwithstanding such trust.

Provision as to voting in respect of estates subject to mortgages or trusts.  
 P. 43.

**75.** And whereas by the said first-recited Act it is enacted (k), that in every city or borough which shall return a member or members to serve in any future Parliament, every male person of full age, and not subject to any legal incapacity, who shall occupy within such city or borough, or within any place sharing in the election for such city or borough, as owner or tenant, any house, warehouse, counting-house, shop, or other building, being either separately or jointly with any land within such

2 & 3 Will. 4,  
 c. 45, s. 27.

(e) Fifteenth; 48 & 49 Vict. c. 15, s. 12.

(f) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67), except in so far as relates to the rights of persons saved by 48 & 49 Vict. c. 3. Fifty pounds rental qualification abolished, saving the rights of persons registered in respect of such qualification in 1884; 48 & 49 Vict. c. 3, ss. 10, 12, and Sched. 2, Part I.

(g) 2 & 3 Will. 4, c. 45, s. 23.

(h) 2 & 3 Will. 4, c. 45, s. 26.

(i) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(k) 2 & 3 Will. 4, c. 45, s. 27.



## Section 75.

city, borough, or place, occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, of the clear yearly value of not less than ten pounds, shall, if duly registered according to the provisions thereinafter contained, be entitled to vote in the election of a member or members to serve in any future Parliament for such city or borough; and it is also provided, that no such person shall be so registered in any year unless he shall have occupied such premises as aforesaid for twelve calendar months next previous to the *last (l)* day of July in such year, nor unless such person, where such premises are situate in any parish or township in which there shall be a rate for the relief of the poor, shall have been rated in respect of such premises to all rates for the relief of the poor in such parish or township made during the time of such his occupation so required as aforesaid, nor unless such person shall have paid on or before the twentieth day of July in such year all the poor's rates and assessed taxes which shall have become payable from him in respect of such premises previously to the *sixth day of April (m)* then next preceding: And whereas doubts have arisen how far any misnomer or inaccurate or insufficient description in a rate of the person occupying any such premises as in the said recited Act are mentioned, or any inaccurate description of the premises so occupied, has the effect of preventing any such person from being registered and entitled to vote in respect of such premises in any year: Be it therefore declared and enacted, that where any person shall have occupied such premises as in the said recited Act are mentioned for twelve calendar months next previous to the *last (l)* day of July in any year, and such person being the person liable to be rated for such premises shall have been *bonâ fide* called upon to pay in respect of such premises all rates made for the relief of the poor in such parish or township during the time of such his occupation so required as aforesaid, and such person shall have *bonâ fide* paid on or before the twentieth day of July in such year all sums of money which he shall have been called upon to pay as rates in respect of such premises for one year previously to the *sixth day of April (m)* then next preceding, such person shall be considered as having been rated and paid all rates in respect of such premises within the meaning of the said recited Act, and be entitled to be registered in respect of the same in any year, any misnomer or inaccurate or insufficient description in any rate of the person so occupying or of the premises occupied notwithstanding (*n*).

Inaccurate description in rate not to prevent persons being registered under recited enactment.  
P. 178.

How distance prescribed in recited Act as to residence of voters for any city or borough is to be measured.  
P. 132.

76. And whereas doubts have arisen as to the measurement of the distance of seven statute miles in the said first-recited Act mentioned and therein prescribed (*o*), as to the residence of voters for any city or borough: Be it therefore declared and enacted, that the said distance shall be understood to be the distance of seven miles as measured in a straight line on the horizontal plane from the point within any city or borough or place sharing in the election therewith from which such distance is to be measured, according to the directions in that behalf in the said Act: Provided always, that in cases where there is now or shall

(*l*) Fifteenth; 41 & 42 Vict. c. 26, s. 7.

(*m*) Fifth day of January; 11 & 12 Vict. c. 90.

(*n*) This section was applied to occupiers of premises in counties capable of conferring the county franchise, under 30 & 31 Vict. c. 102, by 31 & 32 Vict. c. 58, s. 30.

(*o*) By ss. 27, 31, 32, and 33.



hereafter be a map of any city or borough, and of the country surrounding the same, drawn or published under the authority and direction of the principal officers of Her Majesty's ordnance, such distance may be measured and determined by the said map. Section 76.

77. [*Freeholders in New Shoreham, Cricklade, etc., need not be assessed to land tax (p).*]

78. And whereas by the said first-recited Act it is enacted (q) and provided, that every person then having a right to vote in the election for any city or borough in virtue of any other qualification than as a burgess or freeman, or as a freeman and liveryman, or as a freeholder or burgage tenant, as therein mentioned, shall retain such right of voting so long as he shall be qualified as an elector, according to the usages and customs of such city or borough, or any law then in force, and that such person shall be entitled to vote in the election of a member or members to serve in Parliament for such city or borough, if duly registered according to the provisions in the said Act in that behalf contained; and it is thereby further provided, nevertheless, that every such person shall for ever cease to enjoy such right of voting for any such city or borough as aforesaid if his name shall have been omitted from the register of such voters under certain circumstances therein and herein-after specified: And whereas doubts have arisen as to the intent and meaning of the words the "register of such voters" in such last-mentioned provision: Be it therefore declared and enacted, that every such person shall for ever cease to enjoy such right of voting in virtue of any other qualification than as a burgess or freeman, or as a freeman and liveryman, or as a freeholder or burgage tenant as aforesaid, if his name shall for two successive years not have been inserted or appear in the register of voters for such city or borough in respect of such other qualification (notwithstanding the name of such person may appear in such register for both or either of the same two successive years in respect of some qualification of a different nature), unless the name of such person in any such year shall not have been inserted as aforesaid or have been omitted by reason or in consequence of his having received parochial relief within twelve calendar months next previous to the last day of July in the same year, or by reason or in consequence of his absence on the naval and military service of Her Majesty.

2 & 3 Will. 4,  
c. 45, s. 33.  
P. 115.

Cesser in certain cases of special rights of voting reserved by recited enactment.

79. [*Register to be conclusive.*]

80. [*Repeal as to questions at the poll.* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33).]

81, 82. [*Inquiries at the poll.*]

83, 84. [*Punishment of personation.* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33).]

85—89. [*Detection of personation.*]

90. [*Constables at polling places.*]

91. [*Duty of returning officer.* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33).]

92. [*Polling of London liverymen.*]

(p) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(q) 2 & 3 Will. 4, c. 45, s. 33.

**Section 93.** 93. [*Transmission of poll books to Clerk of the Crown in Chancery.*]

94—96. [*As to poll books.* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33).]

Parties wilfully  
contravening  
this Act liable  
to penalty,  
recoverable by  
action of debt.

P. 290.

97. Every sheriff, under-sheriff, clerk of the peace, town clerk, secondary, returning officer, clerk of the Crown, postmaster, overseer, or other person or public officer, required by this Act to do any matter or thing, shall for every wilful misfeasance, or wilful act of commission or omission contrary to this Act, forfeit to any party aggrieved the penal sum of one hundred pounds, or such less sum as the jury before whom may be tried any action to be brought for the recovery of the before-mentioned sum shall consider just to be paid to such party, to be recovered by such party, with full costs of suit, by action of debt, in *any of Her Majesty's superior courts at Westminster (r)*: Provided always, that nothing herein contained shall be construed to supersede any remedy or action against any returning officer according to any law now in force (s).

98, 99. [*Election committees and returning officers.* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33).]

Notice of  
objection may  
be sent by the  
post.

P. 311.

100. It shall be sufficient, in every case of notice to any person objected to in any list of county, city, or borough voters, and in the livery list in the city of London, and also in the case of county voters to the occupying tenant whose name and place of abode appears in such respective list as aforesaid, if the notice so required to be given as aforesaid shall be sent by the post, free of postage, or the sum chargeable as postage for the same being first paid, directed to the person to whom the same shall be sent at his place of abode as described in the said list of voters; and whenever any person shall be desirous of sending any such notice of objection by the post, he shall deliver the same, duly directed, open and in duplicate, to the postmaster of any post office where money orders are received or paid, within such hours as shall have been previously given notice of at such post office, and under such regulations with respect to the registration of such letters, and the fee to be paid for such registration (which fee shall in no case exceed twopence over and above the ordinary rate of postage), as shall from time to time be made by the Postmaster-General in that behalf; and in all cases in which such fee shall have been duly paid the postmaster shall compare the said notice and the duplicate, and on being satisfied that they are alike in their address and in their contents, shall forward one of them to its address by the post, and shall return the other to the party bringing the same, duly stamped with the stamp of the said post office; and the production by the party who posted such notice of such stamped duplicate shall be evidence of the notice having been given to the person at the place mentioned in such duplicate on the day on which such notice would in the ordinary course of post have been delivered at such place: Provided also, that if no place of abode of the person objected to shall be described in the said list, or if such place of abode shall be situate out of the United Kingdom, then it shall be sufficient if notice shall be given to the said overseers, and to such occupying tenant as aforesaid (if any) in the case of a county voter, or,

Production of  
stamped dupli-  
cate to be  
evidence.

P. 345.

(r) The Supreme Court of Judicature.

(s) See 2 & 3 Will. 4, c. 45, s. 76; 45 & 46 Vict. c. 50, s. 75. See also ss. 50 and 51, *ante*, and 30 & 31 Vict. c. 102, ss. 28, 29; 31 & 32 Vict. c. 58, ss. 28, 29; 41 & 42 Vict. c. 26, ss. 29, 36; 48 & 49 Vict. c. 3, s. 9 (3).

in the case of a city or borough voter, to the overseers or to the town clerk, or, in the case of a liveryman of the city of London, to the secondaries and clerk of the particular company to which the person objected to shall belong, as is in each of the said cases hereinbefore required (*t*).

## Section 100.

101. Throughout this Act, in the construction thereof, except there be something in the subject or context inconsistent with or repugnant to such construction, the word "county" shall extend to and mean any county, riding, parts or division of a county, respectively returning a knight or knights of the shire to serve in Parliament; and the words "city or borough" shall extend to and mean any city, borough, town corporate, cinque port, district, or place within England and Wales returning a member or members to serve in Parliament, other than counties at large, and ridings, parts, and divisions of counties at large, and to every place sharing in the election of a member for any city or borough, and shall also include the town of Berwick-upon-Tweed; the words "clerk of the peace" shall comprehend and apply to any deputy or other person executing the duties of such clerk of the peace (*u*); and the words "town clerk" shall, except in regard to the cities of London and Westminster and the borough of Southwark, extend to and mean any person executing the duties of town clerk, or if in any city or borough there shall be no such officer as town clerk, then to any officer executing the same or like duties as usually devolve upon the town clerk, or if in any city or borough there be no such person, then to the returning officer of such city or borough, or to such person as the returning officer may appoint for that purpose, which he is hereby authorized to do; and the words "*barrister*" or "*barristers*" shall respectively be taken to include a *serjeant* or *serjeants-at-law* (*v*); and the words "returning officer" shall apply to every person or persons to whom by virtue of his or their office, under any law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in Parliament, by whatever name or title such person or persons may be called; and the words "parish or township" shall extend to and mean every parish, township, village, hamlet, district, or place maintaining its own poor; and the words "overseers" or "overseers of the poor" shall extend to and mean all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed, and all matters by this Act directed to be done by the overseers of a parish or township may be lawfully done by the major part of such overseers (*w*); and wherever any notice is by this Act required to be given or sent to the overseers of any parish or township, it shall be sufficient if such notice shall be delivered to any one of such overseers, or shall be left at his place of abode, or at his office or other place for transacting parochial business, or shall be sent by the post, free of postage, or the postage thereof being first paid, addressed to the overseers of the particular parish or township, naming the parish or township, and the county, city, or borough respectively, to which the notice to be so sent may relate, without adding any place of abode of

Interpretation clause.

Meaning of the word "county."

"City or borough."

"Clerk of the peace."  
P. 281.

"Town clerk."  
P. 282.

"Barrister."

"Returning officer."

"Parish or township."

"Overseers" or "overseers of the poor."  
P. 286.

Provision as to service of notices on overseers and others.  
P. 310.

(*t*) This section applied to notices of objection under 28 & 29 Vict. c. 36, by s. 9 of that Act, and to notices of objection under 41 & 42 Vict. c. 26, by s. 40 of that Act.

(*u*) See 51 & 52 Vict. c. 41, s. 83.

(*v*) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Vict. c. 67).

(*w*) See 2 & 3 Will. 4, c. 45, s. 79; 45 & 46 Vict. c. 50, ss. 7 (1), 238 (1).

- Section 101.** such overseers ; and wherever by this Act any notice (*x*) is required to be given or sent to any person or persons whatsoever, or public officer, it shall be sufficient if such notice be sent by the post in the manner and subject to the regulations hereinbefore provided with respect to sending notices of objection by the post, free of postage, or the postage thereof being first paid, addressed with a sufficient direction to the person or persons to whom the same ought to be given or sent, at his or their usual place of abode (*y*) ; and all provisions in this Act relative to any matters to be done by or with regard to justices of the peace for counties, or sessions of the peace for counties, or clerks of the peace for counties, or treasurers of counties, shall extend to the justices, sessions, clerks of the peace, and treasurers of the several ridings of Yorkshire and parts of Lincolnshire ; and the town clerk for the time being for the borough of Newport in the Isle of Wight shall for the purposes of this Act be deemed and taken to be the clerk of the peace for the county of the Isle of Wight (*z*) ; and all the said respective justices, sessions, and clerks of the peace shall have power to do the several matters required by this Act, as well within places of exclusive jurisdiction as without ; and that no misnomer or inaccurate description of any person, place, or thing named or described in any schedule to this Act annexed, or in any list or register of voters, or in any notice required by this Act, shall in anywise prevent or abridge the operation of this Act with respect to such person, place, or thing, provided that such person, place, or thing, shall be so denominated in such schedule, list, register, or notice, as to be commonly understood (*a*) ; and the word “oath” shall include affirmation, where by law such affirmation is required or allowed to be taken in place of an oath ; and where the subject or context requires it, every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing ; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things.
- Provisions as to justices, sessions, clerks of the peace, and treasurers of counties, to extend to ridings.  
P. 281.
- Town clerk of Newport to be deemed clerk of the peace of Isle of Wight.  
Misnomer not to vitiate.  
P. 303.
- “Oath.”  
P. 318.
- Singular.
- Plural.

102. [*Act may be amended, etc.*](*b*).

## SCHEDULES to which this Act refers.

### Schedule A.

### SCHEDULE (A.)

#### FORMS FOR COUNTIES.

[Now superseded by the Forms contained in Schedule 1 of the Registration Order, 1895.]

(*x*) Includes any document required to be sent or delivered ; 41 & 42 Vict. c. 26, s. 40.

(*y*) Applied by 41 & 42 Vict. c. 26, s. 40 to service of notices under that Act.

(*z*) See 2 & 3 Will. 4, c. 45, s. 79, and 48 & 49 Vict. c. 15, s. 7 (2).

(*a*) See 45 & 46 Vict. c. 50, s. 241, and 2 & 3 Will. 4, c. 45, s. 79.

(*b*) Repealed by the Statute Law Revision Act, 1874 (No. 2) (37 & 38 Vict. c. 96).



## SCHEDULE (B.)

## Schedule B.

## FORMS FOR CITIES AND BOROUGHES.

[Now superseded except as to such forms as are hereinafter set out by the forms contained in Schedule 3 of the Registration Order, 1895.]

## No. 5.

FORM 5.

Sect. 14.

## List of Freemen to be published by the Town Clerk (c).

THE LIST OF FREEMEN of the city [or borough] of [or of ],  
being a place sharing in the election with the city [or borough] of  
entitled to vote in the election of a member [or members] for the said  
city [or borough].

Christian name and surname of each freeman at full length.	Place of his abode.

## No. 7.

FORM 7.

Sect. 15.

## Notice of Claim by Freemen to be given to the Town Clerk.

To the town clerk of the city [or borough] of

I HEREBY give you notice, that I claim to have my name inserted in the  
list made by you of persons entitled as freemen to vote in the election of a  
member [or members] to serve in Parliament for the city [or borough]  
of and that my qualification is as a freeman of and that I  
reside in street, in this city [or borough, or as the case may be].

Dated this day of one thousand eight hundred and  
(Signed) J.D.

## No. 9.

FORM 9.

Sect. 15.

## List of Claimants to be published by the Town Clerk.

THE following persons claim to have their names inserted in the list of the  
freemen of the city [or borough] of [or of ], being a  
place sharing in the election with the city [or borough] of  
entitled to vote in the election of a member [or members] for the said  
city [or borough].

Christian name and surname of each person, as in the claim.	Place of his abode.

(c) Under s. 14, it is clear that this list must be signed by the town clerk, although this Form does not provide for such signature.

**Schedule B.**

No. 13.

**The List of Persons objected to, to be published by the Town Clerks.**

FORM 13.

Sect. 18.

THE following persons have been objected to as not being entitled to have their names retained on the list of the freemen of the city [or borough] of [or of] being a place sharing in the election with the city [or borough] of ], entitled to vote in the election of a member [or members] for the said city [or borough].

Christian and surname of each person objected to.	Place of his abode.

(Signed) A.B. { Town clerk of the said city  
[or borough or place].

**Schedule C.****SCHEDULE (C.)****FORMS FOR THE CITY OF LONDON.**

FORM 1.

Sect. 20.

No. 1.

**A List of such of the freemen of London as are Liverymen of the Company of [ ] entitled to vote in the election of members for the City of London.**

Christian and surname of the voter at full length.	Street, lane, or other description of his place of abode.

(Signed) A.B., Clerk.

FORM 2.

Sect. 20.

No. 2.

**Notice of Claim to be given to the Secondaries of the City of London, and to the Clerks of the respective Livery Companies.**

To the Secondaries of the City of London [or to the Clerk of the company of ].

I HEREBY give you notice, that I claim to have my name inserted in the list made by the clerk of the company of [or, in case of notice to the clerk, say, made by you] of the liverymen of the said company, [or, in case of notice to the clerk, say, of the liverymen of the company of ] entitled to vote in the election of members for the City of London.

Dated the [ ] day of [ ]

(Signed) A.B. { Place of abode.  
Name of Company.



**Schedule C.**

No. 6.

FORM 6.

Sect. 20.

The List of Persons objected to, to be published by the Secondaries of the City of London.

THE following persons have been objected to as not entitled to have their names retained on the list of persons entitled to vote, as freemen of the City of London and Liverymen of the several Companies herein specified, in the election of members for the said city.

Christian and surname of each person objected to.	Place of his abode.	Name of the Company.

Dated the            day of

(Signed)

A.B., } Secondaries of the  
C.D., } City of London.

**Schedule D.****SCHEDULE (D.)**

No. 1.

FORM 1.

Sects. 5, 8, 10, 13,  
14, 18, 20.

Table of Rates of Payment to be demanded and paid for any list or copy of a list (other than a register), where a payment is required and authorized by this Act.

For any list or copy of a list containing any number of persons' names—

	s.	d.
Not exceeding 100 names - - - - -	0	6
Exceeding 100 and not exceeding 200 - - - - -	1	0
Exceeding 200 and not exceeding 300 - - - - -	1	6
Exceeding 300 and not exceeding 400 - - - - -	2	0
Exceeding 400 - - - - -	2	6

FORM 2.

No. 2.

Sect. 49.

Table of Rates of Payment to be demanded and paid for any copy of a register or part of any register, where a payment is required and authorized by this Act.

For every copy of any register or any part of any register containing any number of persons' names—

	s.	d.
Not exceeding 1,000 names - - - - -	1	0
Exceeding 1,000 and not exceeding 3,000 - - - - -	2	6
Exceeding 3,000 and not exceeding 6,000 - - - - -	5	0
Exceeding 6,000 and not exceeding 9,000 - - - - -	7	6
Exceeding 9,000 - - - - -	10	0



PARLIAMENTARY ELECTIONS ACT, 1848 (*d*).

(11 &amp; 12 VICT. CAP. 90.)

*An Act to regulate the Times of Payment of Rates and Taxes by Parliamentary Electors.* [31st August, 1848.]

*Whereas it is expedient to make further regulation as to the payment of rates and taxes now necessary (e) to be made in order to qualify persons to be registered as voters in the election of members of Parliament: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that (f) after the first day of January, one thousand eight hundred and forty-nine, no person shall be required, in order to entitle him to have his name inserted in any list of voters for any city, town, or borough in England, to have paid any poor's rates or assessed taxes, except such as shall have become payable from him previously to the fifth day of January in the same year; and that (f) no person shall be entitled to be on any such list of voters, unless the poor's rates and assessed taxes payable from him previously to the fifth day of January shall be paid on or before the twentieth day of July next following.*

Regulations as to the payment of rates and taxes necessary to entitle parties to be on the list of voters for members of Parliament.  
Pp. 173, 175.

## CITY OF LONDON ELECTIONS ACT, 1849.

(12 &amp; 13 VICT. CAP. XCIV.)

*An Act to amend an Act passed in the Eleventh Year of the Reign of King George the First, for regulating Elections within the City of London, and for preserving the Peace, good Order, and Government of the said City.* [1st August, 1849.]

WHEREAS by an Act passed in the eleventh year of the reign of His Majesty King George the First, intituled "An Act for regulating Elections within the City of London and for preserving the Peace, good Order, and Government of the said City," it was enacted, that the right of election of aldermen and common councilmen for the several and respective wards of the said city should belong and appertain to freemen of the said City of London, being householders, paying scot, as thereafter mentioned and provided, and bearing lot when required in their several and respective wards, and to none other whatsoever; provided nevertheless, that the houses of such householders be respectively of the true and real value of ten pounds a year at the least, and that such householders be respectively the sole occupiers of such houses, and have been actually in possession respectively of a house of such value in the ward wherein the election is made by the space of twelve calendar months next before such election: And whereas it is expedient that the right of voting in the election of aldermen and common councilmen for the several and respective wards of the said city should be extended and enlarged, and that the said recited Act should be altered and amended: May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent

11 Geo. 1, c. 18.

(*d*) Short title conferred by the Short Titles Act, 1896 (59 & 60 Viet. c. 14).

(*e*) See 2 & 3 Will. 4, c. 45, s. 27.

(*f*) Repealed by the Statute Law Revision Act, 1891 (54 & 55 Viet. c. 67).

**Section 1.**

So much of recited Act as regulates the right of voting and the time of polling at ward-motes repealed.

Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that so much of the said recited Act as regulates the right of voting in elections of aldermen and common councilmen for the several and respective wards of the City of London, and the time at which the polling at such elections shall commence, and the period during which it shall continue, shall be and the same is hereby repealed.

Right of voting for aldermen, common councilmen, and ward officers.  
P. 251.

2. And be it enacted, that at every election for aldermen or common councilmen or ward officers for any ward in the city of London every freeman of the said city (not subject to any legal incapacity) who shall occupy within the said city or the liberties thereof, either solely or jointly with any other person or persons, any house, warehouse, counting-house, office, chambers, or shop, and shall, in the case of a sole occupation, be rated in respect of such premises in his own name to an amount not less than ten pounds per annum, or, in the case of a joint occupation, be rated in the joint names of the occupiers to an amount which, when divided by the number of occupiers, shall give a sum of not less than ten pounds per annum for each and every such occupier, to the police or any other rate, and who shall be registered in the register of voters for the city of London in use at elections for members to serve in Parliament, and then in force, in respect to such premises, shall be entitled to vote in any such election for alderman or common councilman or ward officer in the ward in which such premises shall be situate.

An alphabetical list of voters to be made out on Nov. 1st of every year, which shall be open to inspection.

3. And be it enacted, that on the first day of November in every year the alderman and common councilmen of each ward shall make or cause to be made out an alphabetical list of all persons who shall be entitled to vote as freemen occupiers under this Act, such list to be duly signed by the alderman of the ward; and the ward clerk shall keep a true copy of such list, to be perused by any person, without payment of any fee, at all reasonable hours between the first and fifteenth days of November in every year, and shall at all times deliver a written or printed copy of such list to any person requiring the same, on payment of a reasonable price for each copy; and the said list shall be the list of freemen occupiers entitled to vote, after the passing of this Act, at any election for alderman or common councilman or ward officer for any ward (g).

As to service of summons upon freemen to pay scot, &c.

4. And be it enacted, that the service at such house, warehouse, counting-house, office, chambers, or shop, of any summons to pay scot or hear lot, or execute any office, shall be good service upon any freeman, and be deemed good and sufficient notice to him.

\* \* \* \* \*

A declaration to be made by freemen, in lieu of oath or affirmation, on taking up the freedom.

10. And be it enacted, that in lieu of the oath or affirmation which every person being or becoming free of the city of London is upon taking up his freedom now obliged to take, every such person shall make and subscribe, before the same parties by whom the said oath or affirmation is now required to be administered, a solemn declaration in the form or to the following effect; that is to say,

“I, A.B., do solemnly declare that I will be good and true to our Sovereign Lady Queen Victoria; that I will be obedient to the mayor

of this city; that I will maintain the franchises and customs thereof, and will keep this city harmless in that which in me is; that I will also keep the Queen's peace in my own person; that I will know no gatherings nor conspiracies made against the Queen's peace, but I will warn the mayor thereof, or hinder it to my power; and that all these points and articles I will well and truly keep according to the laws and customs of this city, to my power." Section 10.

11. And be it enacted, that the making and subscribing any such declaration shall confer upon and shall entitle the person making and subscribing the same to the same rights and privileges as he would have been entitled to, and shall subject him to the same pains, penalties, and forfeitures as he would have been subject to, in case he had taken the oath usually taken by persons upon taking up their freedom, and shall have the same force and effect in law, and according to the customs of the City of London, as the taking of the freeman's oath now hath, and shall be deemed and taken to be a compliance with the custom of the said city, as fully and effectually as if the said oath had been taken. Declaration to have the same effect as the taking of the oath heretofore by freemen.

12. And be it enacted, that this Act shall be a public Act, and shall be judicially taken notice of as such. Public Act.

## COMPOUND HOUSEHOLDERS ACT, 1851.

(14 & 15 VICT. CAP. 14.)

*An Act to amend the Law for the Registration of certain Persons commonly known as "Compound Householders," and to facilitate the Exercise by such Persons of their Right to Vote in the Election of Borough Members to serve in Parliament.* [3rd July, 1851.]

WHEREAS by the Representation of the People Act, 1832, it is enacted (h), that no person shall be registered to vote for members to serve in Parliament in any year in respect of the occupation of premises in any city or borough unless such person shall have been rated in respect of such premises to all rates for the relief of the poor in the parish or township where the same are situated made during the time of such his occupation, nor unless such person shall have paid on or before the twentieth of July in such year all the poor's rates and assessed taxes which shall become payable from him in respect of such premises previously to the sixth day of April then next preceding: And whereas the said Act was amended, in so far as relates to the period when such rates and taxes shall be required to be paid, by an Act passed in the session held in the eleventh and twelfth years of Her present Majesty, intituled "An Act to regulate the Times of Payment of Rates and Taxes by Parliamentary Electors:" And whereas by the said first-recited Act it is further enacted (i) that it shall be lawful for any person occupying premises in any city or borough which shall return a member or members to serve in any future Parliament to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof, and upon such occupier so claiming, and actually paying

2 & 3 Will. 4, c. 45.

11 & 12 Vict. c. 90.

2 & 3 Will. 4, c. 45, s. 30.

(h) 2 & 3 Will. 4, c. 45, s. 27.

(i) 2 & 3 Will. 4, c. 45, s. 30. The words in italics have been repealed by the Statute Law Revision Act, 1892 (55 & 56 Vict. c. 19).

**Section 1.** or tendering the full amount of the rate or rates, if any, then due in respect of such premises, the overseers of the parish or township in which such premises are situated are thereby required to put the name of such occupier upon the rate for the time being, and in case such overseer shall neglect or refuse so to do such occupier shall nevertheless for the purposes of the said Act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid : And whereas it is often inconvenient or impracticable for such persons to make continual claim in respect of each rate, and many persons are consequently deprived of the franchise : *Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that* and from after the passing of this Act (j) no person so claiming to be rated, and paying or tendering on or before the twentieth day of July in each year the full amount of the rate or rates (if any) due in respect of such premises on the fifth day of January preceeding, shall be required to make any further claim in regard to any future rate upon the premises in respect whereof his right to vote in any such election as aforesaid shall arise, but shall be entitled to be put on the list and to be registered as a voter, provided he shall have occupied the premises in the manner and for the time required by the said *firstly-recited (j) Act*, and provided the poor's rates and assessed taxes chargeable upon the same shall have been paid for the period and up to the time required by law in respect of all persons entitled to vote in the election of members of Parliament for any borough under the provisions of the said *firstly-recited (j) Act*.

Occupiers having once claimed to be rated in respect of premises, and paying rates, need not make further claim with regard to future rates.

P. 180.

Liability of the claimants to rates shall continue so long as they occupy the premises and remain on the register.

In case of composition with landlord, the liability shall be limited to the amount of the composition.

**2.** Provided always, *and be it enacted (j)*, that every person so claiming as aforesaid who shall be registered as a voter in respect of the premises to which his claim relates shall, in respect of every rate for the relief of the poor made and published after such claim as aforesaid, while he continues to occupy the same premises and to be a registered voter in respect thereof be liable to the same extent and in the same manner as in respect of the rate published next before the making of such claim.

**3.** Provided always, *and be it enacted (j)*, that in cases where by any composition with the landlord a less sum shall be payable than the full amount of rate which, except for such composition, would be due in respect of the same premises, the occupier claiming to be rated shall not be bound to pay or tender more than the amount then payable under such composition (k).

## COUNTY VOTERS REGISTRATION ACT, 1865.

(28 & 29 VICT. CAP. 36).

*An Act to amend the Law relating to the Registration of County Voters, and to the Powers and Duties of Revising Barristers in certain Cases.*

[2nd June, 1865.]

*Whereas it is expedient to amend an Act passed in the session of Parliament holden in the sixth and seventh years of the reign of Her Majesty, intituled*

6 & 7 Vict. c. 18. *"An Act to amend the Law for the Registration of Persons Entitled to Vote,*

(j) Repealed by the Statute Law Revision Act, 1892 (55 & 56 Vict. c. 19).

(k) See 32 & 33 Vict. c. 41, ss. 3 and 4.



and to define certain Rights of Voting, and to regulate certain Proceedings in the Election of Members to serve in Parliament for England and Wales, so far as relates to the Registration of County Voters, and to the Powers and Duties of Revising Barristers : ” Be it enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows : (l)

## Section 1.

1. This Act may be cited as “The County Voters Registration Act, 1865,” and shall be construed (m) with and as part of the said recited Act, hereinafter termed “the principal Act.”

2. The clerk of the peace shall on or before the tenth day of June (n) in every year, (o) make and cause to be delivered to the overseers of the poor of every parish and township within his county his precept according to the Form No. 1 in Schedule (A.) to this Act (p), instead of the precept numbered 1 in Schedule (A.) to the principal Act (l), together with the forms of notices, lists, and copies of register in the principal Act mentioned.

Clerk of peace to deliver precept to overseers of poor.  
P. 283.

3. The clerk of the peace of every county shall, together with the precept, transmit to the overseers of every parish or township within such county a sufficient number of copies of the part or parts of the register relating to such parish or township ; and the overseers of the poor of every parish and township shall, on or before the twentieth day of June in every year, and at the same time with the publication of the notice (q) mentioned in the fourth section of the principal Act, publish (r) a copy of the register then in force relating to their parish or township, and shall remove the same after a period including two Sundays at least, and not later than the twentieth day of July.

Clerk to send copies of register to overseers.  
P. 288.  
Publication of register.

4. [Twentieth August last day for giving notices of objection. Repealed by 48 & 49 Vict. c. 15, s. 17].

5. [First September last day for delivery of papers to clerk of peace. Repealed by 48 & 49 Vict. c. 15, s. 17].

6. Any notice of objection to any person on the list of claimants for any parish or township may be given according to the provisions of the seventh section of the principal Act (s), but with that exception (t) no notice of objection given under the provisions of the said seventh section, other than a notice to the overseers, shall be valid, unless the ground or grounds of objection be specifically stated therein ; and this provision shall be deemed to be sufficiently satisfied by naming the column or columns of the list on which the objector grounds his objection : Provided always, that if the objection be grounded on the

Notice of objection to persons on list of claimants may be given as provided by 6 & 7 Vict. c. 18, s. 7, but other notices of objection other than notices to overseers, shall specify grounds of objection.

(l) Words in italics repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(m) See 6 & 7 Vict. c. 18, s. 101.

(n) On or within seven days before the fifteenth of April ; 48 & 49 Vict. c. 15, s. 7.

(o) Words in italics repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

(p) Now replaced by Form prescribed by the Registration Order, 1895, First Schedule.

(q) Notice as to ownership claims to be given by overseers.

(r) See 6 & 7 Vict. c. 18, ss. 23—26.

(s) I.e., without statement of grounds of objection.

(t) I.e., with the exception of objections to ownership claimants.

P. 299.

## Section 6.

third column, then it shall be necessary to state in the notice whether the objection relates to the nature of the voter's interest in the qualifying property, or to the value (*u*) of the qualifying property, or to both; and each of such last-mentioned grounds of objection shall be deemed a separate ground of objection, as well as any objection grounded on any one of the other columns; and such last-mentioned notice may be according to the Form numbered 2 in Schedule (A.) to this Act (*x*), or to the like effect, in substitution for the Form numbered 5 in Schedule (A.) to the principal Act (*y*).

Person objected to only required to give evidence in support of his right so far as called in question.

7. No person objected to under the provisions of this Act shall be required to give evidence before the revising barrister in support of his right to be registered, otherwise than as such right shall be called in question in such ground or grounds of objection (*z*).

Each ground of objection to be treated as a separate objection.

8. Every separate ground of objection shall be treated by the revising barrister as a separate objection; and for every ground of objection which, in the opinion of the revising barrister, shall have been groundlessly or frivolously and vexatiously stated in a notice of objection, he shall, on the application of the person objected to, or any one on his behalf, and on production of the notice of objection, award costs against the objector to the amount at least of two shillings and sixpence, and this though the name of the person objected to be expunged upon some other ground of objection stated in the same notice of objection (*z*).

Pp. 299, 356.

Costs of frivolous grounds of objection.

Notices of objection.

9. The provisions of the hundredth section (*u*) of the principal Act shall apply to notices of objection given under the provisions of this Act.

Declarations by persons whose places of abode are not correctly described, or who receive notice of objection grounded on second column of list.

10. Any person whose name appears on the list of voters then in force, and whose then place of abode is not correctly stated in the said list, or who shall have received a notice of objection grounded on the second column of the list, and who shall have possessed on the last (*b*) day of July the same qualification in respect of which his name has been inserted on the list, may, if he think fit, make and subscribe a declaration before any justice of the peace, or any commissioner or other person authorized to administer oaths in any of Her Majesty's superior courts at Westminster (*c*), [in the Form contained in Schedule (B.) to this Act (*d*), or to the like effect] (*e*); and all such declarations shall be duly dated, and shall, on or before the fourteenth (*f*) day of September, be transmitted to the clerk of the peace; and it shall be the duty of the clerk of the peace to endorse on every such declaration the name of the polling district, and of the parish or township in which the qualification to which the declaration relates is situate, and the name of the person making the declaration, and also the date on which he has received the same,

P. 292.

P. 281.

(*u*) See s. 17, *post*.

(*x*) Replaced by the Registration Order, 1895, First Schedule, Form No. 5.

(*y*) Words in italics repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14), and again by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

(*z*) This section extended to objections in boroughs, 41 & 42 Vict. c. 26, s. 26.

(*a*) As to service by post, and proof of service by production of duplicate.

(*b*) Fifteenth; 48 & 49 Vict. c. 15, s. 12.

(*c*) Her Majesty's Supreme Court of Judicature.

(*d*) Replaced by the Registration Order, 1895, First Schedule, Form No. 7.

(*e*) Words bracketed in italics repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

(*f*) Fifth; 51 & 52 Vict. c. 10, s. 6.

and to affix his initials to such last-mentioned endorsement, and to deliver all such declarations to the revising barrister at his first court, arranged under the heads of the several polling districts according to the alphabetical order of the parishes and townships; and every revising barrister shall, for the purpose of correcting the statement in the list of the place of abode of such person, receive any such declaration as evidence, to be used in court at the proper time, if transmitted to the clerk of the peace on or before such last-mentioned day, of which the endorsement in that behalf by the clerk of the peace shall be *prima facie* proof, and if purporting to be subscribed before a justice of the peace, or commissioner, or other person authorized as aforesaid, without proof of the signature of the person subscribing the same, or of the justice, commissioner, or person before whom the same purports to have been subscribed, unless he shall have good reason to doubt the genuineness of any signature thereto; and all such declarations may be perused by any person at the office of the clerk of the peace, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, *before the twentieth day of September (g)*, and the clerk of the peace shall deliver copies of any such declaration to all persons applying for the same, on payment of the price of fourpence per folio of seventy-two words (*h*).

**Section 10.**

Barristers shall use such declarations as evidence for correction of lists as to place of abode  
P. 328.

Declarations to be open to perusal.  
P. 285.

Copies to be sold on application.

11. Any person falsely or fraudulently signing any such declaration in the name of any other person, whether such person shall be living or dead, and every person transmitting as genuine any false or falsified declaration, knowing the same to be false or falsified, and any person knowingly and wilfully making any false statement of fact in such declaration, shall be guilty of a misdemeanor, and punishable by fine or imprisonment for a term not exceeding one year, and the revising barrister shall have power to impound any such declaration (*i*).

Penalty for falsely signing declaration, etc.

12. [*As to time for revision of county lists (j).*]

13. Every order for costs by a revising barrister, whether revising the lists of a county, city, or borough, in the case of any objection, shall be made before his proceeding to hear any objection stated in any other notice of objection, and such order may be delivered either to the person to whom the costs shall therein be ordered to be paid, or to some other person on his behalf: Provided always, that this section shall not be taken to repeal the last proviso (*k*) contained in the forty-sixth section of the principal Act.

Orders for costs in cases of objections.  
P. 356.

14. The sum ordered to be paid by way of costs shall not upon any one vote exceed the sum of five pounds, and the forty-sixth section of the principal Act shall be read as if the words "five pounds" had been substituted therein for the words "twenty shillings."

Costs upon any one vote not to exceed 5*l*.  
6 & 7 Vict. c. 18, s. 46.  
P. 355.

15. It shall be the duty of every revising barrister, whether revising the lists of a county, city, or borough, before signing any page of any list, as required by the forty-first section of the principal Act, to read out audibly in open court the names expunged and inserted by him therein, and all corrections and insertions made by him.

Revising barrister to read out names expunged and inserted, and corrections.

P. 358.

(*g*) Prior to the first day on which a court for the revision of the lists of voters in a parliamentary county can be held: 48 & 49 Vict. c. 15, s. 4 (2).

(*h*) Cp. 41 & 42 Vict. c. 26, s. 24. (*i*) Cp. 41 & 42 Vict. c. 26, s. 25.

(*j*) Repealed, 48 & 49 Vict. c. 15, s. 17.

(*k*) As to payment of costs as ordered before the hearing of any other objection made by the same objector.



**Section 16.**

Power to remove persons from court who interrupt proceedings. Attendance of police to keep order, etc.  
P. 321.

Meaning of "value" in case of objection to claim of occupying tenant.

16. It shall be lawful for any revising barrister, whether revising the lists of a county, city, or borough, to order any person to be removed from his court who shall interrupt the business of the court, or refuse to obey his lawful orders in respect of the same; and it shall be the duty of the chief constable, commissioner, or chief officer of police of the county, city, borough, or place in which the court is held, to take care that an officer of police do attend that court during its sitting, for the purpose of keeping order therein, and to carry into effect any order of the revising barrister as aforesaid.

17. For the purposes of this Act (*l*) the word "value" shall in the case of an objection to any person claiming to be retained or inserted in the list as an occupying tenant mean "amount of rental."

[The schedules to which this Act refers were repealed by 48 & 49 Vict. c. 15, s. 17, and Schedule 1, and the forms now in force are contained in the Registration Order, 1895, First Schedule.]

**REVISING BARRISTERS ACT, 1866.**

(29 & 30 VICT. CAP. 54.)

*An Act to Amend the Law relating to the Qualifications of Revising Barristers.* [30th July, 1866.]

6 & 7 Vict. c. 18.

WHEREAS it is expedient to amend an Act passed in the sixth year of the reign of Her present Majesty, intituled "An Act to amend the Law for the Registration of Persons entitled to vote, and to define certain Rights of Voting, and to regulate certain proceedings in the Election of Members to serve in Parliament for England and Wales," so far as it relates to the qualifications of revising barristers:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Election commissioner not disqualified as revising barrister.

15 & 16 Vict. c. 57.

P. 315.

1. That notwithstanding anything in the recited Act (*m*), the appointment of or the holding office by any barrister as a commissioner appointed before or after the passing of this Act, under the Election Commissioners Act, 1852 (*n*), shall not disqualify such barrister for the appointment to or from holding the office of revising barrister.

**CITY OF LONDON MUNICIPAL ELECTIONS AMENDMENT ACT, 1867. (30 VICT. CAP. i.)**

*An Act to Amend an Act passed in the Thirteenth Year of Her Majesty's Reign, intituled an Act to Amend an Act passed in the Eleventh Year of the Reign of King George the First, for regulating Elections within the City of London, and for preserving the Peace, good Order, and Government of the said City.* [6th April, 1867.]

12 & 13 Vict. c. xciv.

WHEREAS by an Act passed in the session of Parliament held in the twelfth and thirteenth years of the reign of Her Majesty, intituled "An Act to amend an Act passed in the Eleventh Year of the reign of King

(*l*) See s. 6.

(*m*) See 6 & 7 Vict. c. 18, s. 28.

(*n*) This Act provides for the appointment of barristers at law of not less than seven years' standing as commissioners to inquire into corrupt practices at elections upon a joint address of both Houses of Parliament.



George the First, for regulating Elections within the City of London, and for preserving the Peace, good Order, and Government of the said City," no person can vote at any election for alderman or common councilman or ward officer of the said city unless he is a freeman of the city, and also registered in the register of voters for the said city in use at elections for members to serve in Parliament, and in force at the time of such election: And whereas it is expedient that the right of voting in the election of aldermen, and common councilmen, and ward officers for the several wards of the said city should be extended and enlarged, and that the said recited Act should be altered and amended: And whereas the objects aforesaid cannot be effected without the authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

## Section 1.

1. This Act may for all purposes be cited as "The City of London Municipal Elections Amendment Act, 1867."

2. At every election for alderman or common councilman or ward officer for any ward in the said city every male person of full age, not subject to any legal incapacity, who shall for a period of not less than twelve months previous to the first day of December in any year have been in the occupation within the said city or the liberties thereof, either solely, or jointly with any other person or persons of any house, warehouse, counting-house, office, chambers, or shop, or other building, and shall, in the case of a sole occupation, be rated in respect of such premises in his own name to an amount not less than ten pounds per annum, or in the case of a joint occupation be rated in the joint names of the occupiers to an amount which, when divided by the number of occupiers, will give a sum of not less than ten pounds per annum for each of such occupiers, to the police or any other rate, subject to the provisions of this Act, shall be entitled to vote in any such election for alderman or common councilman or ward officer in the ward in which such premises shall be situate.

Right of voting for aldermen, common councilmen, and ward officers extended to all persons rated at 10*l.* per annum.  
P. 251.

3. At every such election every person on the register of voters for the City of London in use at elections for members to serve in Parliament, and then in force, in respect of the occupation of any house, warehouse, counting-house, shop, office, chambers, or other building, subject to the provisions hereinafter contained, shall be entitled to vote in any such election for alderman or common councilman or ward officer in the ward in which such premises shall be situate.

Right of voting, etc., extended to all occupiers on the register of voters for members of Parliament.  
P. 251.

4. At every such election every person who, if he had resided within the City of London or the liberties thereof, or within any distance therefrom prescribed by law, would have been entitled to be on the register of voters for the City of London in use at elections for members to serve in Parliament in respect of the occupation of any house, warehouse, counting-house, office, chambers, shop, or other building, but who may be excluded from such register by non-residence, shall, subject to the provisions hereinafter contained, be entitled to vote in every such election for alderman or common councilman or ward officer in the ward in which the premises for which he would have been so entitled to be on the register shall be situate.

Right of voting, etc., extended to all persons who would be entitled to be on the register of voters as occupiers if resident.  
P. 251.

5. The third section of the recited Act of the twelfth and thirteenth years of the reign of Her Majesty, chapter ninety-four, shall be amended

An alphabetical list of voters to be made out in

**Section 5.**

December of every year, and to be open to inspection.

as follows : On the third day of December in every year, unless such day shall fall on a Sunday, then on the following Monday, the alderman and common councilmen of each ward shall cause to be made out an alphabetical list of all persons who shall be entitled to vote under this Act, such list to be duly signed by the alderman of the ward ; and the ward clerks shall keep a true copy of such list, to be perused by any person, without payment of any fee, at all reasonable hours between the fifth and fifteenth day of December in every year, and shall at all times deliver a printed copy of such list to any person requiring the same, on payment of a sum not exceeding one shilling for each copy, and the said list shall be the list of persons entitled to vote after the passing of this Act at any election for alderman or common councilman or ward officer for any ward, until the third day of December in the then next year, and shall be conclusive as to the person so entitled.

Declaration to be made by voters.

6. Instead of the declaration required by the said last-mentioned Act to be made by any person before he is admitted to poll at any election of alderman or common councilman or ward officer, every person, before he is so permitted to poll at any such election, shall make the following declaration :

“ I do declare that I am an occupier of premises in the ward of \_\_\_\_\_, and that I have not polled before at this election, and that I am on the list of voters entitled to vote for the ward of \_\_\_\_\_.”

And if any person shall refuse or neglect to make the declaration hereby appointed to be made, then and in every such case the poll or vote of such person so neglecting or refusing shall be null and void, and shall be rejected and disallowed.

Penalty on persons making false declarations.

7. If any person making any such declaration shall wilfully, corruptly, and falsely declare any matter or thing which, if the same had been sworn, would have amounted to wilful and corrupt perjury, every such person so offending shall incur and be subject to the same penalties and forfeitures as by the laws are or may be provided against persons convicted of wilful and corrupt perjury.

\* \* \* \* \*

**VACCINATION ACT, 1867.**

(30 & 31 VICT. CAP. 84.)

*An Act to Consolidate and Amend the Laws relating to Vaccination.*

[12th August, 1867.]

\* \* \* \* \*

Vaccination declared not to be parochial relief so as to impose any disqualification. P. 273.

26. It is hereby declared that the vaccination, or the surgical or medical assistance incident to the vaccination, of any person in a union or parish, heretofore or hereafter performed or rendered by a public vaccinator, shall not be considered to be parochial relief, alms, or charitable allowance, to such person or his parent, and no such person or his parent shall by reason thereof be deprived of any right or privilege, or be subject to any disability or disqualification (o).

(o) See 2 & 3 Will. 4, c. 45, s. 36 ; 30 & 31 Vict. c. 102, s. 40 ; 45 & 46 Vict. c. 50, s. 9 ; 48 & 49 Vict. c. 46 ; 54 & 55 Vict. c. 76, s. 80 (4) ; 56 & 57 Vict. c. 68, s. 23.

REPRESENTATION OF THE PEOPLE ACT, 1867.

Section 1.

(30 & 31 VICT. CAP. 102.)

*An Act further to Amend the Laws relating to the Representation of the People in England and Wales.* [15th August, 1867.]

*Whereas it is expedient to amend the laws relating to the Representation of the People in England and Wales:*

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: (p)*

1. This Act shall be cited for all purposes as "The Representation of the People Act, 1867."

2. This Act shall not apply to Scotland or Ireland, nor in anywise affect the election of members to serve in Parliament for the Universities of Oxford or Cambridge. Application of Act.

PART I.

FRANCHISES.

3. Every man shall, *in and after the year one thousand eight hundred and sixty-eight (p)*, be entitled to be registered as a voter, *and, when registered, to vote (p)* for a member or members to serve in Parliament for a borough (q), who is qualified as follows; (that is to say,) Occupation franchise for voters in boroughs.  
Pp. 189—226.

1. Is of full age, and not subject to any legal incapacity; and

2. Is on the *last (r)* day of July in any year, and has during the whole of the preceding twelve calendar months (s) been, an inhabitant occupier, as owner or tenant, of any dwelling-house (t) within the borough; and

3. Has during the time of such occupation been rated as an ordinary occupier in respect of the premises so occupied by him within the borough to all rates (if any) made for the relief of the poor in respect of such premises; and P. 217.

4. Has on or before the twentieth day of July in the same year *bonâ fide* paid an equal amount in the pound to that payable by other ordinary occupiers in respect of all poor rates that have become payable by him in respect of the said premises up to the preceding fifth day of January: P. 217.

Provided that no man shall under this section be entitled to be registered as a voter by reason of his being a joint (u) occupier of any dwelling-house. P. 221.

4. Every man shall, *in and after the year one thousand eight hundred and sixty-eight, (p)* be entitled to be registered as a voter, [*and, when* Lodger franchise for voters in boroughs.

(p) Words in italics repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(q) This section was extended to counties by 48 & 49 Vict. c. 3, ss. 2 and 7.

(r) Fifteenth; 41 & 42 Vict. c. 26, s. 7.

(s) Subject to 41 & 42 Vict. c. 3, and 54 & 55 Vict. c. 11, s. 2.

(t) Including part of a house separately occupied as a dwelling; 41 & 42 Vict. c. 26, s. 5.

(u) Separate occupation defined; 41 & 42 Vict. c. 26, s. 5.

**Section 4.** *registered, to vote*] (c) for a member or members to serve in Parliament for a borough (e), who is qualified as follows; (that is to say,)

Pp. 226-237.

1. Is of full age, and not subject to any legal incapacity; and
2. As a lodger has occupied in the same borough separately (u) and as sole (a) tenant for the twelve months preceding the last (d) day of July in any year the same (b) lodgings (c), such lodgings being part of one and the same dwelling-house, and of a clear yearly value, if let unfurnished, of ten pounds or upwards; and
3. Has resided in such lodgings (c) during the twelve months immediately preceding the last (d) day of July, and has claimed to be registered as a voter at the next ensuing registration of voters.

Property franchise for voters in counties.

5. Every man shall, [*in and after the year one thousand eight hundred and sixty-eight,*] (e) be entitled to be registered as a voter, [*and, when registered, to vote*] (e) for a member or members to serve in Parliament for a county, who is qualified as follows; (that is to say,)

Pp. 10, 81.

1. Is of full age, and not subject to any legal incapacity, and is seised at law or in equity of any lands or tenements of freehold, copyhold, or any other tenure whatever, for his own life, or for the life of another, or for any lives whatsoever, or for any larger estate of the clear yearly value of not less than five pounds over and above all rents and charges payable out of or in respect of the same, or who is entitled, either as lessee or assignee, to any lands or tenements of freehold or of any other tenure whatever, for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years (whether determinable on a life or lives or not), of the clear yearly value of not less than five pounds over and above all rents and charges payable out of or in respect of the same;

P. 90.

Provided that no person shall be registered as a voter under this section unless he has complied with the provisions of the twenty-sixth section of the Representation of the People Act, 1832 (f).

P. 90.

2 & 3 Will. 4, c. 45.

Occupation franchise for voters in counties.

P. 104.

6. Every man shall, [*in and after the year one thousand eight hundred and sixty-eight,*] be entitled to be registered as a voter, [*and, when registered, to vote*] for a member or members to serve in Parliament for a county, who is qualified as follows; (that is to say,)

1. Is of full age, and not subject to any legal incapacity; and
2. Is on the last day of July in any year, and has during the twelve months immediately preceding been, the occupier, as owner or tenant, of lands or tenements within the county of the rateable value of twelve pounds or upwards; and
3. Has during the time of such occupation been rated in respect to the premises so occupied by him to all rates (if any) made for the relief of the poor in respect of the said premises; and

P. 110.

(g) This section was extended to counties; 48 & 49 Vict. c. 3, ss. 2 and 7.  
 (a) Joint lodgings; see 41 & 42 Vict. c. 26, s. 6.  
 (b) Additional and successive lodgings; see 41 & 42 Vict. c. 26, s. 6.  
 (c) Lodgings defined by 41 & 42 Vict. c. 26, s. 5.  
 (d) Fifteenth; 41 & 42 Vict. c. 26, s. 7.  
 (e) Words in italics repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14.)  
 (f) As to registration and possession for six months.



4. *Has on or before the twentieth day of July in the same year paid all poor rates that have become payable by him in respect of the said premises up to the preceding fifth day of January (g).* **Section 6.** —

7. Where the owner is rated at the time of the passing of this Act to the poor rate in respect of a dwelling-house or other tenement situate in a parish wholly or partly in a borough, instead of the occupier, his liability to be rated in any future poor rate shall cease, and the following enactments shall take effect with respect to rating in all boroughs :

Occupiers in boroughs to be rated, and not owners.

1. After the passing of this Act no owner of any dwelling-house or other tenement situate in a parish either wholly or partly within a borough shall be rated to the poor rate instead of the occupier, except as hereinafter mentioned (h) :

P. 219.

2. The full rateable value of every dwelling-house or other separate tenement, and the full rate in the pound payable by the occupier, and the name of the occupier, shall be entered in the rate book :

P. 219.

Where the dwelling-house or tenement shall be wholly let out in apartments or lodgings not separately rated, the owner of such dwelling-house or tenement shall be rated in respect thereof to the poor rate :

Owners of houses let in lodgings to be rated.

Provided as follows :

(1) [*Saving for compositions existing on 15th August, 1867, till 29th September, 1867.*]

Provisoes as to compositions, etc.

(2) [*Saving for rates made previously to 15th August, 1867.*]

(3) That where the occupier under a tenancy subsisting at the time of the passing of this Act of any dwelling-house or other tenement which has been let to him free from rates is rated and has paid rates in pursuance of this Act, he may deduct from any rent due or accruing due from him in respect of the said dwelling-house or other tenement any amount paid by him on account of the rates to which he may be rendered liable by this Act.

Occupier of house let free from rates may deduct from rent the amount paid in respect of rates.

\* \* \* \* \*

9. [*Number of votes in three member constituencies.*]

\* \* \* \* \*

11. [*No elector who has been employed for reward within six months of an election to be entitled to a vote.*]

\* \* \* \* \*

## PART II.

### DISTRIBUTION OF SEATS.

\* \* \* \* \*

24. In all future Parliaments the University of London shall return one member to serve in Parliament.

University of London to return one member.

25. Every man whose name is for the time being on the register of graduates constituting the convocation of the University of London shall, if of full age, and not subject to any legal incapacity, be entitled to vote in the election of a member to serve in any future Parliament for the said university.

Electors of members for University of London.  
P. 238.

(g) This section was repealed, 48 & 49 Vict. c. 3, s. 12, sched. 2, part 2, except in so far as relates to rights of persons saved (see s. 10) and except in so far as it contains conditions made applicable to franchises created by that Act.

(h) But see 32 & 33 Vict. c. 41, ss. 3, 4, 8, 9, and 11.

## Section 26.

## PART III.

## SUPPLEMENTAL PROVISION.

*Incidents of Franchise.*

As to successive  
occupations,  
P. 192.

26. Different premises occupied in immediate succession by any person as owner or tenant during the twelve calendar months next previous to the *last* (i) day of July in any year shall, unless and except as herein is otherwise provided, have the same effect in qualifying such person to vote for a county or borough as a continued occupation of the same premises in the manner herein provided.

As to joint  
occupation in  
counties,  
P. 110.

27. In a county where premises are in the joint occupation of several persons as owners or tenants, and the *aggregate rateable* (k) value of such premises is such as would, if divided amongst the several occupiers, so far as the value is concerned, confer on each of them a vote, then each of such joint occupiers shall, if otherwise qualified, and subject to the conditions of this Act, be entitled to be registered as a voter, and when registered to vote at an election for the county; Provided always that not more than two persons, being such joint occupiers, shall be entitled to be registered in respect of such premises, unless they shall have derived the same by descent, succession, marriage, marriage settlement or devise, or unless they shall be *bond fide* engaged as partners carrying on trade or business thereon.

Notice of rates  
in arrear to be  
given by over-  
seers to occupiers  
in boroughs,  
P. 288.

28. Where any poor rate due on the fifth day of January in any year from an occupier in respect of premises capable of conferring the franchise for a borough remains unpaid on the first day of June following, the overseers whose duty it may be to collect such rate shall, on or before the twentieth of the same month of June, unless such rate has previously been paid, or has been duly demanded by a demand note, to be served in like manner as the notice in this section referred to, give or cause to be given a notice *in the form set forth in Schedule (E.) (l) to this Act* (m) to every such occupier. The notice shall be deemed to be duly given if delivered to the occupier or left at his last or usual place of abode, or with some person on the premises in respect of which the rate is payable. Any overseer who shall wilfully withhold such notice, with intent to keep such occupier off the list or register of voters for the said borough, shall be deemed guilty of a breach of duty in the execution of the Registration Acts (n).

Penalty for  
wilfully with-  
holding notice,  
P. 329.

Overseers to  
make out a list  
of persons in  
arrear of rates  
in boroughs,  
which shall be  
open to perusal  
without fee.  
P. 289.

29. The overseers of every parish wholly or partly within a borough shall, on or before the twenty-second day of July in every year, make out a list containing the name and place of abode of every person who shall not have paid, on or before the twentieth day of the same month, all poor rates which shall have become payable from him in respect of

(i) Fifteenth; 41 & 42 Vict. c. 26, s. 7; 48 & 49 Vict. c. 15, s. 12.

(k) Substitute "clear yearly," see 48 & 49 Vict. c. 3, s. 5.

(l) Replaced by the Registration Order, 1895, Second and Third Schedules, Forms (C.) No. 1.

(m) Words in italics repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(n) This section was extended to cases where owners may agree to pay rates by 32 & 33 Vict. c. 41, s. 10; extended as to municipal voters in boroughs municipal and parliamentary; 41 & 42 Vict. c. 26, s. 10. As to the punishment of overseers for breach of duty in the execution of the Registration Acts, see 6 & 7 Vict. c. 18, ss. 51, 97.

any premises within the said parish before the fifth day of January then last past, and the overseers shall keep the said list, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day except Sunday during the first fourteen days after the said twenty-second day of July: any overseer wilfully neglecting or refusing to make out such list, or to allow the same to be perused as aforesaid, shall be deemed guilty of a breach of duty in the execution of the Registration Acts (o).

## Section 29.

Penalty on overseer for neglect.  
P. 320.

### Registration of Voters.

30. The following regulations shall [*in and after the year one thousand eight hundred and sixty-eight*] (p) be observed with respect to the registration of voters (q).

Regulation as to registration of voters.

1. The overseers of every parish or township shall make out or cause to be made out a list of all persons on whom a right to vote for a county in respect of the occupation of premises is conferred by this Act, in the same manner, and subject to the same regulations, as nearly as circumstances admit, in and subject to which the overseers of parishes and townships in boroughs are required by the Registration Acts (r) to make out or cause to be made out a list of all persons entitled to vote for a member or members for a borough in respect of the occupation of premises of a clear yearly value of not less than ten pounds:

Lists of voters qualified by occupation in counties.  
P. 289.

2. The claim of every person desirous of being registered as a voter for a member or members to serve for any borough in respect of the occupation of lodgings [*shall be in the form numbered 1 in Schedule (G.), (s) or to the like effect, and shall have annexed thereto a declaration in the form and be certified in the manner in the said schedule mentioned, or as near thereto as circumstances admit; and every such claim*] (p) shall after the last day of July and on or before the *twenty-fifth* (t) day of August in any year be delivered to the overseers of the parish in which such lodgings shall be situate, and the particulars of such claim shall be duly published by such overseers on or before the first day of September next ensuing in a separate list, [*according to the form numbered 2 in the said Schedule (G.): (u)*] (p).

Claim by persons qualified as voters in boroughs by occupation of lodgings.  
P. 294.

So much of section 18 of the Parliamentary Voters Registration Act, 1843, as relates to the manner of publishing lists of claimants,

6 & 7 Vict. c. 18.

(o) This section was extended as to municipal voters in boroughs municipal and parliamentary; 41 & 42 Vict. c. 26, s. 10. As to the punishment of overseers for breach of duty in the execution of the Registration Acts, see 6 & 7 Vict. c. 18, ss. 51, 97.

(p) Words bracketed in italics repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(q) This section was repealed as to so much as relates to persons entitled to vote for a county in respect of the occupation of premises other than lodgings, by 48 & 49 Vict. c. 15, s. 17, Schedule 1. And by 31 & 32 Vict. c. 58, s. 20, the names of lodgers are to appear in a separate list.

(r) See 6 & 7 Vict. c. 18, s. 15.

(s) Now replaced by the Registration Order, 1895, Second and Third Schedules, Forms (K.) No. 2.

(t) Twentieth; 48 & 49 Vict. c. 15, s. 3 (1).

(u) Now replaced by the Registration Order, 1895, Second and Third Schedules, Forms (K.) No. 3.

## Section 30.

P. 349.

Extension of  
meaning of  
"expenses" in  
6 & 7 Vict. c. 18,  
ss. 54, 55.  
P. 363.

and to the delivery of copies thereof to persons requiring the same, shall apply to every such claim and list; and all the provisions of the 38th and 39th sections of the same Act with respect to the proof of the claims of persons omitted from the lists of voters, and to objections thereto, and to the hearing thereof, shall, so far as the same are applicable, apply to claims and objections, and to the hearing thereof, under this section.

31. The word "expenses" contained in the sections fifty-four and fifty-five of the Parliamentary Voters Registration Act, 1843, shall be deemed to and shall include and apply to all proper and reasonable fees and charges of any clerk of the peace of any county, or of any town clerk of any city or borough, to be hereafter made or charged by him in any year for his trouble, care and attention in the performance of the services and duties imposed upon him by the same Act or by this Act, in addition to any money actually paid or disbursed by him for or in respect of any such services or duties as aforesaid (x).

32. [*Duties of clerks of the peace in parts of Lincolnshire*] (y).

*Places for Election, and Polling Places.*

33. [*Courts for the Election of Members for Counties*] (z).

Provision for  
appointment of  
polling districts  
and polling  
places; and  
places for  
holding revision  
courts in  
counties.

34. In every county the justices of the peace having jurisdiction therein or in the larger part thereof, assembled at some court of general or quarter sessions, or at some adjournment thereof, held after the passing of this Act, (a) may, if they think convenience requires it, divide such county into polling districts, and assign to each district a polling place, in such manner as to enable each voter, so far as practicable, to have a polling place within a convenient distance of his residence; and the justices (a), shall advertise, in such manner as they think fit, a description of the polling districts so constituted by them, and the name of the polling place assigned to each district, and shall name the polling places at which the revising barristers are to hold their courts, and no revising barrister shall be obliged to hold his courts at any polling places not so named: Provided that the justices of the peace for the Isle of Ely, assembled as aforesaid (b) shall carry into effect the provisions of this section so far as regards the said Isle of Ely; but nothing herein contained shall affect the powers conferred by any other Act of Parliament of altering polling places or polling districts, or of creating additional polling places or districts:

Proviso as to  
Isle of Ely.

Polling districts  
and places  
in boroughs.

The local authority of every borough shall, if they think convenience requires it, as soon as may be after the passing of this Act, divide such borough into polling districts (c). . . .

(x) See 41 & 42 Vict. c. 26, ss. 30, 38. This section extended to duties of clerks of the peace and town clerks under 48 & 49 Vict. c. 3 and c. 15, by s. 8 of the last mentioned Act.

(y) Repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(z) Repealed in part by the Statute Law Revision Act, 1875 (38 & 39 Vict. c. 66), and by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(a) Now the county council; see 51 & 52 Vict. c. 41, s. 3 (xii.).

(b) Now the county council of the Isle of Ely; see 51 & 52 Vict. c. 41, ss. 3 (xii) and 46.

(c) The remainder of this paragraph relates only to polling booths.



Where any parish in a borough is divided into or forms part of more than one polling district, the overseers shall, so far as practicable, make out the list of voters in such manner as to divide the names in conformity with each polling district :

The town clerk, as defined by the Parliamentary Voters Registration Act, 1843 (*d*), shall cause the lists of voters for each borough to be copied, printed, arranged, and signed, and delivered in the manner directed by the said Act, so as to correspond with the division of the borough into polling districts :

A description of the polling districts made or altered in pursuance of this Act shall be advertised by the local authority in such manner as they think fit. . . .

The local authority shall mean in every municipal borough and in every borough any part of which forms a municipal borough, the town council of such borough, and in other boroughs the justices of the peace acting for such borough, or if there be no such justices then the justices acting for the division of the county in which such borough or the greater part thereof is situate ; (*g*) and in cases where a parliamentary borough is constituted by the combination of two or more municipal boroughs, then the local authority shall mean the town council of that municipal borough in which the nomination takes place :

The local authority may from time to time alter any districts made by them under this Act (*e*).

35. [*When polling places or districts altered, etc., justices to advertise as they think fit*] (*f*).

36. [*Payment of expenses of conveying voters in boroughs to the poll, illegal*] (*g*).

37. [*Rooms to be hired for taking polls wherever they can be obtained*] (*h*).

38. The forty-seventh and forty-eighth sections of the Parliamentary Voters Registration Act, 1843, relating to the transmission and delivery of the book or books containing the lists of voters to the sheriff and returning officer, shall be construed as if the word "December" were substituted in those sections for the word "November," and the said book or books shall be the register of persons entitled to vote for the county or borough to which such register relates at any election which takes place during the year commencing on the first day of January next after such register is made.

39. [*Oath or affirmation, etc., to be taken by poll clerks*] (*f*).

40. The thirty-sixth section of the Representation of the People Act, 1832, disqualifying persons in receipt of parochial relief from being registered as voters for a borough, shall apply to a county also, and the said section shall be construed as if the word "county" were inserted therein before the word "city" ; and the overseers of every

**Section 34.**  
—  
List of voters  
wherein parish  
forms part of  
more than one  
district.

6 & 7 Vict. c. 18.

Alteration as to  
time for delivery  
of lists and  
commencement  
of register of  
voters.

6 & 7 Vict. c. 18,  
ss. 47, 48.

p. 361.

2 & 3 Will. 4, c. 45,  
s. 36, as to dis-  
qualification as  
voter by receipt  
of parochial  
relief, to apply  
to counties as  
well as boroughs.

P. 272.

(*d*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101. See also 31 & 32 Vict. c. 58, s. 18.

(*e*) This section was amended by 31 & 32 Vict. c. 58, s. 18 ; see also 35 & 36 Vict. c. 33, s. 5 ; 46 & 47 Vict. c. 51, s. 47.

(*f*) Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33).

(*g*) Repealed by the Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51).

(*h*) Repealed in part by the Ballot Act, 1872 (35 & 36 Vict. c. 33).

- Section 40.** parish shall omit from the lists made out by them of persons entitled to vote for the borough and county in which such parish is situate the names of all persons who have received parochial relief within twelve calendar months next previous to the *last* (i) day of July in the year in which the list is made out.

*Elections in University of London.*

**41—45.** [*As to elections for University of London.*]

Repeal of 2 & 3 Will. 4, c. 45, ss. 27, 32, and 6 & 7 Vict. c. 18, s. 79, as to residence of electors for City of London within seven miles.  
P. 131, 136.

**46.** So much of the twenty-seventh and thirty-second sections of the Representation of the People Act, 1832, and of the seventy-ninth section of the Parliamentary Voters Registration Act, 1843, as relates to the residence of electors within seven miles of any city or borough, shall be repealed in respect to electors otherwise qualified to be registered and to vote for members to serve in Parliament for the City of London: Provided always, that no person shall be registered as an elector for the said city unless he shall have resided for six calendar months next previous to the *last* (i) day of July in any year, [*nor be entitled to vote at any election for the said city unless he shall have ever since the last day of July in the year in which his name was inserted in the register then in force have resided, and at the time of voting shall have continued to reside*] (k), within the said city, or within twenty-five miles thereof or any part thereof.

*Miscellaneous.*

**47.** [*As to returning officers in new boroughs.*]

**48.** [*Appointment of boundary commissioners*] (l).

Corrupt payment of rates to be punishable as bribery on part of both payer and voter.  
Pp. 177, 270.

**49.** Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privy any such payment as in this section is mentioned is made shall also be guilty of bribery, and punishable accordingly.

**50—55.** [*Miscellaneous provisions not affecting registration.*]

New franchises to be in addition to existing franchises. Saving and application of existing laws, etc.

**56.** The franchises conferred by this Act shall be in addition to and not in substitution for any existing franchises, but so that no person shall be entitled to vote for the same place in respect of more than one qualification; and, subject to the provisions of this Act, all laws, customs, and enactments now in force conferring any right to vote, or otherwise relating to the representation of the people in England and Wales, and the registration of persons entitled to vote, shall remain in full force, and shall apply, as nearly as circumstances admit, to any person hereby authorized to vote, and shall also apply to any constituency hereby authorized to return a member or members to Parliament as if it had

(i) Fifteenth; 41 & 42 Vict. c. 26, s. 7.

(k) Words in italics repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(l) Repealed by the Statute Law Revision Act, 1875 (38 & 39 Vict. c. 66).

heretofore returned such members to Parliament, and to the franchises hereby conferred, and to the registers of voters hereby required to be formed. Section 56.

**57, 58.** [*As to writs.*]

**59.** This Act, so far as is consistent with the tenor thereof, shall be construed as one with the enactments for the time being in force relating to the Representation of the People and with the Registration Acts; and in construing the provisions of the twenty-fourth and twenty-fifth sections of the Representation of the People Act, 1832, the expressions "the provisions hereinafter contained," and "as aforesaid," shall be deemed to refer to the provisions of this Act conferring rights to vote as well as to the provisions of the said Act.

This Act, as far as consistent, to be construed with enactments now in force. Construction of 2 & 3 Will. 4, c. 15, ss. 24, 25.

**60.** [*Saving as to elections before January 1, 1869.*] (*l*)

**61.** The following terms shall in this Act have the meanings herein-after assigned to them, unless there is something in the context repugnant to such construction (that is to say):

Interpretation of terms.

"Month" shall mean calendar month (*m*).

"Month."

"Member" shall include a knight of the shire:

"Member."

"Election" shall mean an election of a member or members to serve in Parliament:

"Election."

"County" shall not include a county of a city or county of a town, but shall mean any county, riding, parts or divisions of a county returning a member or members to serve in Parliament:

"County."

"Borough" shall mean any borough, city, place, or combination of places, not being a county as hereinbefore defined, returning a member or members to serve in Parliament:

"Borough."

"Dwelling-house" shall include any part of a house occupied as a separate dwelling, and separately rated to the relief of the poor: (*n*)

"Dwelling-house."

"The Registration Acts" shall mean the Parliamentary Voters Registration Act, 1843, and the County Voters Registration Act, 1865, and any other Acts or parts of Acts relating to the registration of persons entitled to vote at and proceedings in the election of members to serve in Parliament for England and Wales.

"The Registration Acts."  
6 & 7 Vict. c. 18.  
28 Vict. c. 36.

**BOUNDARY ACT, 1868. (o) (31 & 32 VICT. CAP. 46.)**

*An Act to settle and describe the limits of certain Boroughs and the Divisions of certain Counties in England and Wales in so far as respects the Election of Members to serve in Parliament.* [13th July, 1868.]

\* \* \* \* \*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited for all purposes as the Boundary Act, 1868. Short title.

(*m*) Repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14); see now the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 3.

(*n*) Repealed and replaced by 41 & 42 Vict. c. 26, s. 5, and repealed again by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(*o*) See 2 & 3 Will. 4, c. 64, *ante*.

**Section 2.**

Construction.  
2 & 3 Will. 4.  
c. 64.  
30 & 31 Vict.  
c. 102

Interpretation.

2. This Act, so far as is consistent with the tenor thereof, shall be construed as one with the Parliamentary Boundaries Act, 1832, and with the Representation of the People Act, 1867.

3. "Borough" shall mean any borough, city, county of a city, county of a town or place returning, or being one of a combination of places returning, a member or members to serve in Parliament, other than a county at large, or riding or division of a county at large.

\* \* \* \* \*

Boundaries on  
sea-line to  
extend to low-  
water mark.

11. Where any county, division of a county, or borough abuts on the sea-coast or on any tidal river, the boundaries of such county, division of a county, or borough shall, for all purposes relating to the election of a member or members to serve in Parliament, be deemed to extend to the low-water mark.

Marking of  
boundaries of  
boroughs where  
they do not  
follow well-  
defined lines.

12. Where the boundary of a borough does not follow the boundary of a parish or township, or other well-defined line of demarcation, the returning officer shall, as soon as may be after the passing of this Act, cause the several points of deviation of the boundary to be marked by means of boundary stones, posts, or other marks, and such boundary marks shall from time to time be maintained and renewed by the returning officer of such borough.

For the purposes of this section a returning officer may by himself or his workmen enter upon any lands, doing as little damage as possible, and making compensation for such damage, the amount of such damage to be determined in case of dispute in manner provided by the Lands Clauses Consolidation Act, 1845, with respect to disputed compensation for land.

s & 9 Vict. c. 18

All expenses properly incurred by a returning officer in pursuance of this section shall be deemed to be expenses incurred by him in respect of registration, and shall be defrayed accordingly.

\* \* \* \* \*

## PARLIAMENTARY ELECTORS REGISTRATION ACT, 1868.

(31 & 32 VICT. CAP. 58.)

*An Act to amend the Law of Registration so far as relates to the year one thousand eight hundred and sixty-eight, and for other purposes relating thereto.* [16th July, 1868.]

*Whereas it is expedient to make provision for expediting the completion of the registration of parliamentary electors during the present year, and to make certain amendments in the law relating to elections:*

*Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: (p)*

*Preliminary.*

"Principal Act."  
6 & 7 Vict. c. 18.  
28 & 29 Vict. c. 36.

1. "Principal Act" in this Act shall mean the Parliamentary Voters Registration Act, 1843, as amended by the County Voters Registration Act, 1865.

(p) Repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).



2. This Act shall be construed as one with the principal Act, and may be cited for all purposes as "The Parliamentary Electors Registration Act, 1868." **Section 2.**

Construction and short title.

3. [*Application of Act to Scotland and Ireland.*]

## PART I.

[PROVISIONS AS TO REGISTRATION IN THE YEAR 1868.]

## PART II.

AMENDMENT OF LAW AS TO REGISTRATION.

### *Alteration of Times.*

15, 16. [*Repealed by the Ballot Act, 1872, 35 & 36 Vict. c. 33.*]

### *Amendment of the Representation of the People Act, 1867.*

17. [*Amendment of 30 & 31 Vict. c. 102, s. 30.*] (q).

18. Where a municipal borough forms part of a parliamentary borough the town clerk of such municipal borough shall be deemed to be the town clerk within the meaning of the thirty-fourth section of the Representation of the People Act, 1867, and the Acts relating to registration.

Amendment of s. 34 of 30 & 31 Vict. c. 102. P. 282.

The local authority within the meaning of the same section, in boroughs where the town council is not the local authority, shall be the justices of the petty sessional division in which such borough is situate, or if such borough be situate in or comprise more than one petty sessional division then the justices in general or quarter sessions having jurisdiction over such borough or the greater part thereof in area.

*The power of dividing their county into polling districts, and assigning to each district a polling place, vested in the justices of the peace by the said thirty-fourth section of the Representation of the People Act, 1856, may be exercised by such justices from time to time and as often as they think fit; and the said power of dividing a county into polling districts shall be deemed to include the power of altering any polling district or polling districts (r).*

19. [*Provision as to twelve pounds occupiers*] (s).

20. Notwithstanding anything contained in the thirtieth section of the Representation of the People Act, 1867, and the thirty-eighth section of the principal Act therein referred to, the names of the persons in any parish or township on whom a right to vote for a member or members to serve for any borough in respect of the occupation of lodgings is conferred by the Representation of the People Act, 1867, shall, in the lists and register of voters for such boroughs, appear in a separate list.

Separate list of lodgers in boroughs. P. 289.

(q) This section provided for the application of 6 & 7 Vict. c. 18, s. 15, to the lists of county occupation voters under 30 & 31 Vict. c. 102, s. 30, but is now repealed by 48 & 49 Vict. c. 15, s. 17, the subject-matter being otherwise provided for under that Act.

(r) This paragraph was repealed by 46 & 47 Vict. c. 51, s. 66, and Schedule 5. See now s. 47 of that Act.

(s) Repealed by 48 & 49 Vict. c. 15, s. 17, and Schedule 1.

Section 21. 21. [*As to issue of writs to the County Palatine of Durham.*]*Miscellaneous Amendments.*

Parts of one parish situate in different polling district to be deemed separate parishes for registration purposes.

22. Where any parish in a county, city, or borough forms part of more than one polling district, the part of such parish situate in each polling district shall be deemed to be a separate parish for the purposes of the revision of voters and the lists and register of voters, and may be designated by some distinguishing addition in the list of voters for such part of a parish.

Recovery of expenses by town clerks and returning officers, not paid by overseers.

P. 361.

23. Whereas it is expedient to provide a summary remedy for the recovery by town clerks and returning officers of sums of money due to them in respect of expenses incurred in pursuance of the Registration Acts: Be it enacted, that if the overseers of any parish or township refuse or neglect to pay to the town clerk or returning officer of any borough, out of the first moneys to be collected for the relief of the poor, any contribution or sum required to be paid to him by the fifty-fifth section of the principal Act, or any Act amending the same, or any part of such contribution or sum, it shall be lawful for any justice of the peace for the county or place within which such parish or township is wholly or in part situate, upon information and complaint in writing, and after seven days' notice in writing to be served upon such overseers or one of them, by warrant under his hand to levy such contribution or sum by distress and sale of the goods of the offender or offenders, together with all costs occasioned by the making of such complaint, service of such summons, and the obtaining and executing such warrant.

24. [*Amendment of law as to numbers in polling booths*] (t).

Who to appoint revising barrister for borough situate in more than one circuit.

P. 314

25. Where a borough is situated partly in one circuit and partly in another the judge of the circuit in which the greater part in extent of such borough is situate shall appoint the revising barrister for such borough.

26. [*Power of clerk of peace in case of alteration of boundaries*] (t).

27. [*Appointment of returning officer for borough of Thirsk*] (u).

Production of poor rates by overseers to revising barristers for counties.

P. 290.

28. The overseers of every parish or township shall produce to the barrister appointed to revise the lists of voters of any county, whilst holding his court for revising the lists relating to their parish or township, all rates made for the relief of the poor of their parish or township between the fifth day of January in the year then last past and the last day of July in the then present year; and any overseer wilfully refusing or neglecting to produce any such rates shall be deemed wilfully guilty of a breach of duty in the execution of the principal Act, and be punishable accordingly (x).

Power of revising barristers for counties to summon and examine past overseers or relieving officers.

29. The barrister appointed to revise the lists of voters of any county, whilst holding his court for revising the lists relating to a parish or township, may require any overseer or overseers of a past year, or other person having the custody of any poor rate of the then current or any past year, or any relieving officer, to attend before him at any such

(t) Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33).

(u) Repealed in part by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(x) See 6 & 7 Vict. c. 18, ss. 51 and 97.

court, and they shall attend accordingly, and answer all such questions as may be put to them by the barrister; and any overseer or relieving officer wilfully refusing or neglecting to comply with the requirements authorized to be made by the revising barrister in pursuance of this section shall be punishable in the same manner in which an overseer wilfully guilty of a breach of duty in the execution of the principal Act is punishable under the principal Act (x).

## Section 29.

6 Vict. c. 18,  
ss. 34, 35.  
1. 32.

30. The thirtieth section of the Representation of the People Act, 1832 (y), and the seventy-fifth section of the principal Act (a), shall apply to all occupiers of premises capable of conferring the franchise for a county under the Representation of the People Act, 2 & 3 Will. 4. c. 45. 1867.

Application of  
certain rating  
sections to  
counties.

31. All expenses properly incurred by an overseer in pursuance of this Act shall be deemed to be expenses properly incurred by him in carrying into effect the provisions of the principal Act, and any expense incurred by any relieving officer in attending a revising barrister in pursuance of this Act (the amount to be certified by the revising barrister) shall be deemed to be expenses properly incurred by him in the execution of his duty as relieving officer, and shall be defrayed accordingly (b).

Expenses of  
overseers and  
relieving officers  
under this Act.  
P. 291.

32. The certificate given to the overseers by the revising barrister under section fifty-seven of the principal Act for the expenses incurred by them in carrying into effect the provisions of the Registration Acts shall be final and conclusive; provided nevertheless, that such certificate shall be signed by the revising barrister in open court, and any ratepayer present shall have a right to inspect the account of expenses delivered in by the overseers, and to object to any item or items included therein, before such account is allowed by the revising barrister, who shall hear any such objection and make a decision respecting the same.

Certificate of  
revising bar-  
rister to  
overseers for  
expenses under  
6 & 7 Vict. c. 18,  
s. 57.  
P. 291.

33. [*Provision as to returning officer in case of parliamentary borough becoming a municipal borough*] (c).

34. [*Provision as to issue of precepts, etc., in case of altered or disfranchised boroughs*] (d).

35. Where the boundary of any county or borough is altered in pursuance of any Act passed during the present session of Parliament, any clerk of the peace, town clerk, returning officer, or other officer who would have jurisdiction in relation to the registration of voters, or in relation to the election of members to serve in parliament, within such county or borough if it had remained unaltered, shall have jurisdiction over the area constituting such county or borough as altered by the said Act.

Jurisdiction of  
officers as to  
registration and  
election to  
extend over  
areas of counties  
and boroughs as  
altered by any  
Act of this  
session.

36. [*Provision as to disfranchised Scotch boroughs*] (d).

(y) Occupiers may demand to be rated. See also 32 & 33 Vict. c. 41, s. 19.

(a) Inaccurate description in rate not to prevent persons being registered.

(b) See 6 & 7 Vict. c. 18, s. 57.

(c) Repealed by the Statute Law Revision Act, 1893 (56 & 57 Vict. c. 14).

(d) Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.

**Section 37.** 37. The clerk of the peace of every county, and the town clerk or other officer having charge of the register of every city or borough respectively, shall in each and every year within twenty-one days after the first day of February transmit to one of Her Majesty's principal Secretaries of State a printed copy of the register of voters then in force for such county, city, or borough.

—  
Copies of  
registers to be  
transmitted  
annually to  
Secretary of  
State.

P. 363.

## REVENUE OFFICERS DISABILITIES REMOVAL ACT, 1868.

(31 & 32 VICT. CAP. 73.)

*An Act to relieve certain Officers employed in the collection and Management of Her Majesty's Revenues from any legal Disability to Vote at the Election of Members to serve in Parliament (e). [31st July, 1868.]*

*Whereas it is inexpedient that any person otherwise entitled to be registered as a voter should be incapacitated to vote at the election of a member or members to serve in Parliament by reason of his being employed in the collection or management of Her Majesty's revenues:*

*Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows :*

Repeat of enact-  
ments in  
schedule.

1. The enactments contained in the schedule to this Act are hereby repealed.

P. 269.

### SCHEDULE.

22 George 3, c. 41.

43 George 3, c. 25.

7 & 8 George 4, c. 53, s. 9.

## POOR RATE ASSESSMENT AND COLLECTION ACT, 1869.

(32 & 33 VICT. CAP. 41.)

*An Act for amending the Law with respect to the rating of Occupiers for short terms, and the making and collecting of the Poor's Rate. [26th July, 1869.]*

*Whereas it is expedient to amend the law relating to the collection of poor rates assessed upon occupiers of hereditaments held for short terms, and to the making and collecting of the poor rate.*

*Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows (f) :*

Lessors for short  
terms may  
deduct poor rate  
from rent.

1. The occupier of any rateable hereditament let to him for a term not exceeding three months shall be entitled to deduct the amount paid by him in respect of any poor rate assessed upon such hereditament from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate so paid.

(e) Repealed by the Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39). See also 37 & 38 Vict. c. 22.

(f) Repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).



2. No such occupier shall be compelled to pay to the overseers at one time or within four weeks a greater amount of the rate than would be due for one quarter of the year.

## Section 2.

3. In case the rateable value of any hereditament does not exceed twenty pounds, if the hereditament is situate in the metropolis, or thirteen pounds if situate in any parish wholly or partly within the borough of Liverpool, or ten pounds if situate in any parish wholly or partly within the city of Manchester or the borough of Birmingham, or eight pounds if situate elsewhere, and the owner of such hereditament is willing to enter into an agreement in writing with the overseers to become liable to them for the poor rates assessed in respect of such hereditament, for any term not being less than one year from the date of such agreement, and to pay the poor rates whether the hereditament is occupied or not, the overseers may, subject nevertheless to the control of the vestry (g), agree with the owner to receive the rates from him, and to allow to him a commission not exceeding twenty-five per cent. on the amount thereof.

Amount of rate payable by occupier.  
Owners may agree to pay the rate, and allowed a commission.  
P. 229.

4. The vestry (g) of any parish may from time to time order that the owners of all rateable hereditaments to which section three of this Act extends, situate within such parish, shall be rated to the poor rate (h) in respect of such rateable hereditaments, instead of the occupiers, on all rates made after the date of such order; and thereupon and so long as such order shall be in force the following enactments shall have effect:

Vestries may order the owner to be rated instead of the occupier.  
P. 229.

1. The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of fifteen per centum from the amount of the rate:
2. If the owner of one or more such rateable hereditaments shall give notice to the overseers in writing (i) that he is willing to be rated for any term not being less than one year in respect of all such rateable hereditaments of which he is the owner, whether the same be occupied or not, the overseers shall rate such owner accordingly, and allow to him a further abatement or deduction not exceeding fifteen per centum from the amount of the rate during the time he is so rated:
3. The vestry may by resolution rescind any such order after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect:

Provided that this clause shall not be applicable to any rateable hereditament in which a dwelling-house shall not be included.

5. [*Owners omitting to pay rates before June 5th to forfeit commission.*]

(g) By s. 34 of the Local Government Act, 1894 (56 & 57 Vict. c. 73), where an order of the Local Government Board, under the Local Government Act, 1894, confers on the council of an urban district or some other representative body within the district either the appointment of overseers and assistant overseers or the powers, duties and liabilities of overseers, that order or any subsequent order of the Board may confer on such council or body the powers of the vestry under the third and fourth sections of the Poor Rate Assessment Act, 1869.

(h) Such order to apply to the borough rate also: 45 & 46 Vict. c. 50, s. 147.

(i) Giving this notice is not a condition precedent, and informalities do not affect the qualification of the occupier: 42 Vict. c. 49.

## Section 6.

Constructive  
payment of the  
rate.  
P. 220.

Where owners  
omit to pay  
rates, the  
occupiers paying  
the same may  
deduct the  
amount from  
the rent.

Owners to give  
lists of occupiers,  
and liable to  
penalty for wil-  
ful omission.

Notice to  
occupiers of  
rates in arrear.  
30 & 31 Vict.  
c. 102.  
Pp. 288, 320.

The overseers  
to state the  
period for which  
poor rate is  
made.  
Proviso.

Overseers may  
make poor rate  
payable by  
instalments.

6. [*Repeal of Small Tenements Act, 1850 (13 & 14 Vict. c. 99), and local Acts, so far as the same apply to the poor rate*] (*j*).

7. Every payment of a rate by the occupier, notwithstanding the amount thereof may be deducted from his rent as herein provided, and every payment of a rate by the owner, whether he is himself rated instead of the occupier, or has agreed with the occupier or with the overseers to pay such rate, and notwithstanding any allowance or deduction (*k*) which the overseers are empowered to make from the rate, shall be deemed a payment of the full rate by the occupier for the purpose of any qualification or franchise which as regards rating depends upon the payment of the poor rate.

8. Where an owner who has undertaken, whether by agreement with the occupier or with the overseers, to pay the poor rates, or has otherwise become liable to pay the same, omits or neglects to pay any such rate, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such rate shall be a valid discharge of the rent to the extent of the rate so paid.

9. Every owner who agrees with the overseers to pay the poor rates, or who is rated or liable to be rated for any hereditament instead of the occupier, shall deliver to the overseers, from time to time, when required by them, in writing, a list containing the names of the actual occupiers of the hereditaments comprised in such agreement, or for which he is so rated or liable to be rated; and if any such owner wilfully omits to deliver such list when required to do so, or wilfully omits therefrom or misstates therein the name of any occupier, he shall for every such omission or misstatement be liable, on summary conviction, to a penalty not exceeding two pounds.

10. Section twenty-eight of the Representation of the People Act, 1867, with respect to notice to be given of rates in arrear, shall apply to occupiers of premises capable of conferring the parliamentary franchise, although the owners of such premises have become liable for the rates assessed thereon under the provisions of this Act.

11. [*Liability of owner under agreement.*]

12. [*Recovery of rates unpaid by the owner.*]

13. [*Owner may appeal against valuation list and rate.*]

14. The overseers of every parish when they make a poor rate shall set forth in the title of the rate the period for which the same is estimated, and if the same is payable by instalments the amount of each instalment and the date at which each instalment is payable; provided that if the necessities of the parish shall require it another rate may be made before such period shall have elapsed.

15. The overseers who make the poor rate for a period exceeding three months may declare that the same shall be paid by instalments at such times as they shall specify, and thereupon each instalment only shall be enforceable as and when it falls due, and the payment of any such instalment shall, as respects any qualification or franchise depending upon the payment of the poor rate, be deemed a payment of such rate in respect of the period to which such instalment applies.

(*j*) The Small Tenements Act, 1850, also applied to highway rates. It was entirely repealed by the Statute Law Revision Act, 1875 (38 & 39 Vict. c. 66).

(*k*) As to informal allowances or deductions, see 42 Vict. c. 10.

16. If the occupier assessed in the rate when made shall cease to occupy before the rate shall have been wholly discharged, or if the hereditament being unoccupied at the time of the making of the rate become occupied during the period for which the rate is made, the overseers shall enter in the rate book the name of the person who succeeds or comes into the occupation, as the case may be, and the date when such occupation commences, so far as the same shall be known to them, and such occupier shall thenceforth be deemed to have been actually rated from the date so entered by the overseer, and shall be liable to pay so much of the rate as shall be proportionate to the time between the commencement of his occupation and the expiration of the period for which the rate was made, in like manner, and with the like remedy of appeal, as if he had been rated when the rate was made; and an outgoing occupier shall remain liable in like manner for so much and no more of the rate as is proportionate to the time of his occupation within the period for which the rate was made (*l*); and the twelfth section of the statute 17 Geo. 2, c. 38, shall be repealed.

**Section 16.**

Provision for successive occupiers, and for occupiers coming into unoccupied hereditaments.

17. A poor rate shall be deemed to be made on the day when it is allowed by the justices, and if the justices sever in their allowance then on the day of their last allowance.

When the poor rate shall be deemed to be made.

P. 171.

18. The production of the book purporting to contain a poor rate, with the allowance of the rate by the justices, shall, if the rate is made in the form prescribed by law, be *prima facie* evidence of the due making and publication of such rate.

Evidence of making and publication of rates.

19. The overseers in making out the poor rate shall, in every case, whether the rate is collected from the owner or occupier, or the owner is liable to the payment of the rate instead of the occupier, enter in the occupiers' column of the rate book the name of the occupier of every rateable hereditament, and such occupier shall be deemed to be duly rated for any qualification or franchise as aforesaid; and if any overseer negligently or wilfully and without reasonable cause omits the name of the occupier of any rateable hereditament from the rate, or negligently or wilfully misstates any name therein, such overseer shall for every such omission or misstatement be liable on summary conviction to a penalty not exceeding two pounds; provided that any occupier whose name has been omitted shall, notwithstanding such omission and that no claim to be rated has been made by him, be entitled to every qualification and franchise depending upon rating, in the same manner as if his name had not been so omitted (*m*).

Overseers to insert names of all occupiers in the rate.

P. 170.

[Penalty for omission.]

[Saving of franchises.]

20. The word "overseer" shall include every authority that makes an assessment for the poor rate; the words "poor rate" shall mean the assessment for the relief of the poor, and for the other purposes chargeable thereon according to law, and in the metropolis shall extend to every rate made by the overseers, and chargeable upon the same property as the poor rate; the word "owner" shall mean any person receiving or claiming the rent of the hereditament for his own use, or receiving the same for the use of any corporation aggregate, or of any public company, or of any landlord or lessee who shall be a minor, a married woman, or insane, or for the use of any person for whom he is acting as agent; the word "parish" shall signify every place for which a separate overseer can be appointed; the word "vestry" shall include

Interpretation.

(*l*) See 45 & 46 Vict. c. 20, s. 3.

(*m*) See the application of this section under 41 & 42 Vict. c. 26, s. 14.

**Section 20.** not only the vestry of a parish existing under the authority of some general or special Act of Parliament, or by special custom or otherwise, but also the meeting of the inhabitants of any township, vill, or place having a separate overseer, and for which a separate poor rate is made, held after notice given in like manner as is required by law in regard to the meetings of vestries; and the word "metropolis" shall include only the metropolis as defined by the Metropolis Management Act, 1855.

18 & 19 Vict.  
c. 120.

**21.** [*Act not to extend to Scotland or Ireland.*]

Short title.  
Commencement  
of Act.

**22.** This Act may be cited as the "Poor Rate Assessment and Collection Act, 1869," [and shall come into operation on the twenty-ninth day of September one thousand eight hundred and sixty nine: *Provided that the vestry of any parish may before that day order that the owners shall be rated instead of the occupiers under this Act, but no such order shall take effect until after the said twenty-ninth day of September one thousand eight hundred and sixty nine*] (n).

## NATURALIZATION ACT, 1870. (33 & 34 VICT. CAP. 14.)

*An Act to amend the Law relating to the Legal Condition of Aliens and British Subjects.* [12th May, 1870.]

*Whereas it is expedient to amend the law relating to the legal condition of aliens and British subjects:*

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: (n)*

Short title.

**1.** The Act may be cited for all purposes as the "Naturalization Act, 1870."

### *Status of Aliens in the United Kingdom.*

Capacity of an  
alien as to  
property.

**2.** Real and personal property of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject; and a title to real and personal property of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject: *Provided,—*

P. 259.

- (1) That this section shall not confer any right on an alien to hold real property situate out of the United Kingdom, and shall not qualify an alien for any office or for any municipal (o), parliamentary, or other (p) franchise:
- (2) That this section shall not entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him:
- (3) That this section shall not affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act.

(a) Repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

(o) See 45 & 46 Vict. c. 50, s. 9.

(p) See 56 & 57 Vict. c. 73, s. 2.



3. Where Her Majesty has entered into a convention with any foreign state to the effect that the subjects or citizens of that state who have been naturalized as British subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty, by Order in Council, to declare that such convention has been entered into by Her Majesty; and from and after the date of such Order in Council, any person being originally a subject or citizen of the state referred to in such order, who has been naturalized as a British subject, may, within such limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration such person shall be regarded as an alien, and as a subject of the state to which he originally belonged as aforesaid.

**Section 3.**

Power of naturalized subjects to divest themselves of their status in certain cases.

P. 262.

A declaration of alienage may be made as follows; that is to say,—If the declarant be in the United Kingdom in the presence of any justice of the peace, if elsewhere in Her Majesty's dominions in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose. If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

4. Any person who by reason of his having been born within the dominions of Her Majesty is a natural born subject, but who also at the time of his birth became under the law of any foreign state a subject of such state, and is still such subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage, such person shall cease to be a British subject. Any person who is born out of Her Majesty's dominions of a father being a British subject may, if of full age, and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a British subject.

How British-born subject may cease to be such.

P. 260.

5. [*Aliens not entitled to jury de medietate linguæ*].

*Expatriation.*

6. Any British subject who has at any time before, or may at any time after the passing of this Act, when in any foreign state and not under any disability, voluntarily become naturalized in such state, shall, from and after the time of his so having become naturalized in such foreign state, be deemed to have ceased to be a British subject and be regarded as an alien: Provided,—

Capacity of British subject to renounce allegiance to Her Majesty.

P. 261.

(1) That where any British subject has before the passing of this Act voluntarily become naturalized in a foreign state and yet is desirous of remaining a British subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a British subject, and upon such declaration hereinafter referred to as a declaration of British nationality being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject; with this qualification, that he shall not, when within the limits of the foreign state in which he has been naturalized, be deemed to be a British subject unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect;

## Section 6.

(2) A declaration of British nationality may be made, and the oath of allegiance be taken as follows; that is to say,—if the declarant be in the United Kingdom, in the presence of a justice of the peace; if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose. If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

*Naturalization and Resumption of British Nationality.*

7. An alien who within such limited time before making the application hereinafter mentioned as may be allowed by one of Her Majesty's principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years, or has been in the service of the Crown for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom or to serve under the Crown, may apply to one of Her Majesty's principal Secretaries of State for a certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers, and privileges, and be subject to all obligations, to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a British subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject.

An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

8. A natural-born British subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien, may, on performing the same conditions and adducing the same evidence as is required in the case of an alien applying for a certificate

of nationality, apply to one of Her Majesty's principal Secretaries of State for a certificate, hereinafter referred to as a certificate of re-admission to British nationality, re-admitting him to the status of a British subject. The said Secretary of State shall have the same discretion as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

## Section 8.

A statutory alien to whom a certificate of re-admission to British nationality has been granted shall from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a British subject; with this qualification, that within the limits of the foreign state of which he became a subject he shall not be deemed to be a British subject unless he has ceased to be a subject of that foreign state according to the laws thereof, or in pursuance of a treaty to that effect.

The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to British nationality, in the case of any statutory alien being in any British possession, may be exercised by the governor of such possession; and residence in such possession shall, in the case of such person, be deemed equivalent to residence in the United Kingdom.

### 9. [*Form of oath of allegiance.*]

#### *National Status of Married Women and Infant Children.*

10. The following enactments shall be made with respect to the national status of women and children :

National status  
of married  
women and  
infant children.  
P. 261.

- (1) A married woman shall be deemed to be a subject of the state of which her husband is for the time being a subject :
- (2) A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act :
- (3) Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the state of which the father or mother has become a subject, and not a British subject :
- (4) Where the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions with such father or mother, shall be deemed to have resumed the position of a British subject to all intents :
- (5) Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, or with such father while in service of the Crown out of the United Kingdom, shall be deemed to be a naturalized British subject.

## Section 11

*Supplemental Provisions.*

Regulations as to evidence.

11. [*Regulations as to registration.*]

12. The following regulations shall be made with respect to evidence under this Act :—

- (1) Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned :
- (2) A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's principal Secretaries of State to give certified copies of such certificate :
- (3) A certificate of re-admission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's principal Secretaries of State to give certified copies of such certificate.
- (4) Entries in any register authorized to be made in pursuance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register :
- (5) The Documentary Evidence Act, 1868, shall apply to any regulation made by a Secretary of State, in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

31 & 32 Vict.  
c. 37.

*Miscellaneous.*

Saving of letters of denization.  
P. 261.

13. Nothing in this Act contained shall affect the grant of letters of denization by Her Majesty.

14. [*Saving as to British ships.*]15. [*Saving of allegiance prior to expatriation.*]

Power of colonies to legislate with respect to naturalization.

16. All laws, statutes, and ordinances which may be duly made by the legislature of any British possession for imparting to any person the privileges, or any of the privileges, of naturalization, to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same



rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes, or ordinances in that possession. **Section 16.**

17. In this Act, if not inconsistent with the context or subject-matter thereof,— Definition of terms.

“Disability” shall mean the status of being an infant, lunatic, idiot, or married woman :

“British possession” shall mean any colony, plantation, island, territory, or settlement within Her Majesty’s dominions, and not within the United Kingdom, and all territories and places under one legislature are deemed to be one British possession for the purposes of this Act :

“The Governor of any British Possession” shall include any person exercising the chief authority in such possession :

“Officer in the Diplomatic Service of Her Majesty” shall mean any ambassador, minister or chargé d’affaires, or secretary of legation, or any person appointed by such ambassador, minister, chargé d’affaires, or secretary of legation to execute any duties imposed by this Act on an officer in the diplomatic service of Her Majesty :

“Officer in the Consular Service of Her Majesty” shall mean and include consul-general, consul, vice-consul, and consular agent, and any person for the time being discharging the duties of consul-general, consul, vice-consul, and consular agent.

*Repeal of Acts mentioned in Schedule.*

18. The several Acts set forth in the first and second parts of the schedule annexed hereto shall be wholly repealed, and the Acts set forth in the third part of the said schedule shall be repealed to the extent therein mentioned ; provided that the repeal enacted in this Act shall not affect— Repeal of Acts

(1) Any right acquired or thing done before the passing of this Act :

(2) Any liability accruing before the passing of this Act :

(3) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before the passing of this Act :

(4) The institution of any investigation or legal proceeding or any other remedy for ascertaining or enforcing any such liability, penalty, forfeiture, or punishment as aforesaid (p).

**SCHEDULE (p).**

NOTE.—Reference is made to the repeal of the “whole Act” where portions have been repealed before, in order to preclude henceforth the necessity of looking back to previous Acts.

This schedule, so far as respects Acts prior to the reign of George the Second, other than Acts of the Irish Parliament, refers to the edition prepared under the direction of the Record Commission, intituled “The Statutes of the Realm ; printed by command of His Majesty King George the Third, in pursuance of an Address of the House of Commons of Great Britain. From original Records and authentic Manuscripts.”

(p) Repealed by Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39), but inserted here for the sake of the references in the reported cases referred to in the text, *ante*, pp. 259—262.

## Schedule.

## PART I.

## ACTS WHOLLY REPEALED, OTHER THAN ACTS OF THE IRISH PARLIAMENT.

DATE.	TITLE.
7 Jas. 1, c. 2-	An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper, and the oath of allegiance, and the oath of supremacy.
11 Will. 3, c. 6 (g)	An Act to enable His Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens.
13 Geo. 2, c. 7 -	An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's colonies in America.
20 Geo. 2, c. 44 -	An Act to extend the provisions of an Act made in the thirteenth year of His present Majesty's reign, intituled "An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's colonies in America, to other foreign Protestants who conscientiously scruple the taking of an oath."
13 Geo. 3, c. 25	An Act to explain two Acts of Parliament, one of the thirteenth year of the reign of His late Majesty, "for naturalizing such foreign Protestants and others, as are settled or shall settle in any of His Majesty's colonies in America," and the other of the second year of the reign of His present Majesty, "for naturalizing such foreign Protestants as have served or shall serve as officers or soldiers in His Majesty's Royal American regiment, or as engineers in America."
14 Geo. 3, c. 84 -	An Act to prevent certain inconveniences that may happen by bills of naturalization.
16 Geo. 3, c. 52 -	An Act to declare His Majesty's natural-born subjects inheritable to the estates of their ancestors, whether lineal or collateral, in that part of Great Britain called Scotland, notwithstanding their father or mother were aliens.
6 Geo. 4, c. 67 -	An Act to alter and amend an Act passed in the seventh year of the reign of His Majesty King James the First, intituled "An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper, and the oath of allegiance and the oath of supremacy."
7 & 8 Vict. c. 66 -	An Act to amend the laws relating to aliens.
10 & 11 Vict. c. 83	An Act for the naturalization of aliens.

PART II.

Schedule.

[ACTS OF THE IRISH PARLIAMENT WHOLLY REPEALED.]

PART III.

ACTS PARTIALLY REPEALED.

FORFEITURE ACT, 1870. (33 & 34 VICT. CAP. 23.)

*An Act to abolish Forfeitures for Treason and Felony and to otherwise amend the Law relating thereto.* [July 4th, 1870.]

*Whereas it is expedient to abolish the forfeiture of land and goods for treason and felony, and otherwise to amend the law relating thereto :*

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :* (that is to say) (r).

1. [From and after the passing of this Act] (r), no confession, verdict, inquest, conviction, or judgment of or for any treason or felony or *felo de se* shall cause any attainder, or corruption of blood, or any forfeiture or escheat, provided that nothing in this Act shall affect the law of forfeiture consequent upon outlawry.

Forfeiture, etc., abolished.  
P. 267.

2. Provided nevertheless, that if any person hereafter convicted of treason or felony for which he shall be sentenced to death, or penal servitude, or any term of imprisonment with hard labour, or exceeding twelve months, shall at the time of such conviction hold any military or naval office, or any civil office under the Crown or other public employment, or any ecclesiastical benefice, or any place, office, or emolument in any university, college, or other corporation, or be entitled to any pension or superannuation allowance payable by the public, or out of any public fund, such office, benefice, employment, or place shall forthwith become vacant, and such pension or superannuation allowance or emolument shall forthwith determine and cease to be payable, unless such person shall receive a free pardon from Her Majesty within two months after such conviction, or before the filling up of such office, benefice, employment, or place, if given at a later period ; and such person shall become, and (until he shall have suffered the punishment to which he had been sentenced, or such other punishment as by competent authority may be substituted for the same, or shall receive a free pardon from her Majesty) shall continue thenceforth incapable of holding any military or naval office, or any civil office under the Crown or other public employment, or any ecclesiastical benefice, or of being elected, or sitting or voting as a member of either House of Parliament, or of exercising any right of suffrage or other parliamentary or municipal franchise whatever within England, Wales, or Ireland.

Conviction for treason or felony to be a disqualification for offices, etc.  
P. 267.

3. [Persons convicted of treason or felony may be condemned in costs.]

4. [Compensation to persons defrauded or injured by felony.]

(r) Repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

**Section 5.**

Definition of  
"forfeiture."

5. The word forfeiture in the construction of this Act shall not include any fine or penalty imposed on any convict by virtue of his sentence.

*[The remainder of this Act does not affect the law relating to franchises or registration.]*

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THE BALLOT ACT, 1872.

(35 & 36 VICT. CAP. 33.)

*An Act to amend the Law relating to Procedure at Parliamentary and Municipal Elections.* [18th July, 1872.]

*Whereas it is expedient to amend the law relating to procedure at Parliamentary and Municipal Elections :*

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows (s) :—*

PART I.

PARLIAMENTARY ELECTIONS.

*[Procedure at Elections.]*

*[Offices at Elections.]*

*Amendment of Law.*

Division of  
counties and  
boroughs into  
polling district.

5. *The local authority (as hereinafter defined) of every county shall by order, as soon as may be practicable after the passing of this Act, divide such county into polling districts and assign a polling place to each district, in such manner that, so far as is reasonably practicable, every elector resident in the county shall have a polling place within a distance not exceeding four miles from his residence, so, nevertheless, that a polling district need not in any case be constituted containing less than one hundred registered electors (t).*

The local authority (as hereinafter defined) of every borough shall take into consideration the division of such borough into polling districts, and, if they think it desirable, by order, divide such borough into polling districts in such manner as they may think most convenient for taking the votes of the electors at a poll.

The local authority of every county and borough shall, on or before the first day of May, one thousand eight hundred and seventy-three, send to one of Her Majesty's principal Secretaries of State, to be laid by him before both Houses of Parliament, a copy of any order made by such authority in pursuance of this section, and a report, in such form as he may require, stating how far the provisions of this Act with respect to polling districts have been complied with in their county or borough ; and if they make any order after the first day of May, one thousand eight hundred and seventy-three, with respect to polling districts or polling places in their county or borough, they shall send a copy of such order to the Secretary of State, to be laid by him before both Houses of Parliament.

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(s) Repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

(t) This paragraph has been repealed by 46 & 47 Vict. c. 51, s. 66, and Schedule 5.



The local authority of a county or borough in this section means the authority having power to divide such county or borough into polling districts under section thirty-four of the Representation of the People Act, 1867 (*u*), and any enactments amending that section (*v*), and such authority shall exercise the powers thereby given to them for the purposes of this section; and the provisions of the said section as to the local authority of a borough constituted by the combination of two or more municipal boroughs, shall apply to a borough constituted by the combination of a municipal borough and other places, whether municipal boroughs or not; and in the case of a borough of which a town council is not the local authority, and which is not wholly situate within one petty sessional division, the justices of the peace for the county in which such borough or the larger part thereof in area is situate, assembled at some court of general or quarter sessions, or at some adjournment thereof, shall be the local authority thereof, and shall for this purpose have jurisdiction over the whole of such borough; and in the case of such borough and of a county, a court of general sessions shall be assembled within twenty-one days after the passing of this Act, and any such court may be assembled and adjourned from time to time for the purpose. No election shall be questioned by reason of any non-compliance with this section or any informality relative to polling districts or polling places, and any order made by a local authority in relation to polling districts or polling places shall apply only to lists of voters made subsequently to its date, and to registers of voters formed out of such lists, and to elections held after the time at which a register of voters so formed has come into force: Provided that where any such order is made between the first day of July and the first day of November in any year, and does not create any new division between two or more polling districts of any parish for which a separate poor rate is or can be made, such order shall apply to the register of voters which comes into force next after such order is made, and to elections held after that register so comes into force; and the clerk of the peace or town clerk, as the case may be, shall copy, print, and arrange the lists of voters for the purpose of such register in accordance with such orders.

Section 5.

P. 359.

\* \* \* \*

*Miscellaneous.*

\* \* \* \*

15. This part of this Act shall, so far as is consistent with the tenor thereof, be construed as one with the enactments for the time being in force relating to the representation of the people, and to the registration of persons entitled to vote at the election of members to serve in Parliament, and with any enactments otherwise relating to the subject-matter of this part of this Act, and terms used in this part of this Act shall have the same meaning as in the said enactments. . . .

Construction of Act.

PART IV.  
MISCELLANEOUS.

\* \* \* \*

*Repeal.*

32. The Acts specified in the Fourth, Fifth, and Sixth Schedules to this Act to the extent specified in the third column of those schedules

Repeal of Acts in schedule.

(*u*) *Ante*, p. 452.(*v*) See 31 & 32 Vict. c. 58, s. 18; 46 & 47 Vict. c. 51, s. 47; 51 & 52 Vict. c. 41, s. 3 (xii).

**Section 32.** and all other enactments inconsistent with this Act, are hereby repealed (x).

Short title.

**33.** This Act may be cited as the Ballot Act, 1872, and shall continue in force till the thirty-first day of December one thousand eight hundred and eighty, and no longer unless Parliament shall otherwise determine (y); and on the said day the Acts in the Fourth Fifth, and Sixth Schedules shall be thereupon revived; provided that such revival shall not affect any act done, any rights acquired, any liability or penalty incurred, or any proceeding pending under this Act, but such proceeding shall be carried on as if this Act had continued in force.

#### FOURTH SCHEDULE.

*Acts relating to England.*

[The repeals included in this Schedule so far as they affect the Acts hereinbefore contained in this Appendix are duly noted in each of such Acts.]

### REVISING BARRISTERS ACT, 1873.

(36 & 37 VICT. CAP. 70.)

*An Act to amend the Law relating to the appointment of Revising Barristers and the holding of Revision Courts.* [5th August, 1873.]

*Whereas it is expedient to amend the law relating to the appointment of revising barristers and the holding of revision courts:*

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows (z):—*

Short title.

1. This Act may be cited as "The Revising Barristers Act, 1873."

Repeal of Acts in schedule.

2. The Acts specified in the schedule to this Act are hereby repealed from and after the passing of this Act to the extent specified in the third column of the schedule without prejudice to anything done or suffered before the passing of this Act under the enactments hereby repealed (a).

Power to Queen in Council to alter number of revising barristers.  
P. 311.

3. Her Majesty, by Order in Council, may vary from time to time, either by way of increase or decrease, the number of revising barristers to be appointed for any counties, cities, boroughs, or places in pursuance of section twenty-eight of the Parliamentary Electors Registration Act, 1843, and the number fixed by such order shall be substituted for the number fixed by the said section, or by any previous Order in Council made under this or any other Act (b).

Evening sittings of revision court.  
P. 317.

4. Every barrister appointed to revise the lists for a parliamentary borough containing, according to the last census for the time being,

(x) Repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54). See now the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 38.

(y) See Expiring Laws Continuance Acts.

(z) Repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

(a) Repealed by the Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39).

(b) See Order in Council, August 15th, 1890, St. R. & O. 947.

more than ten thousand inhabitants, shall hold at least one evening sitting of his court in such borough. **Section 4.**

An evening sitting shall commence not earlier than six nor later than seven o'clock in the evening, and shall be of such duration as, in the opinion of the revising barrister, shall be reasonable.

Special notice or notices of an evening sitting or of evening sittings to be held in a borough shall be published by the town clerk (c) in such manner as the revising barrister may direct (d).

5. If a revising barrister is prevented by illness from holding a court at any place in a county or borough at the appointed time, he may, by notice in writing addressed to the clerk of the peace of such county, or town clerk of such borough, adjourn such court to some other day named in the notice, and the court shall be adjourned accordingly; and the clerk of the peace or town clerk on the receipt of such notice shall forthwith give public notice of such adjournment, in like manner as he gives notice of the time at which the revising barrister will hold his court.

Adjournment of court by revising barrister.  
P. 317.

A formal adjournment of the court of a revising barrister from day to day shall not be necessary, but the revision shall be deemed to be adjourned, and may be continued from day to day until concluded: Provided that no court shall be adjourned under this section to any day later than the *thirty-first* (e) of October in any year.

6. In this Act—

The term “The Parliamentary Electors Registration Act, 1843,” means the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter eighteen, intituled “An Act to amend the law for the registration of persons entitled to vote and to define certain rights of voting, and to regulate certain proceedings in the election of members to serve in Parliament for England and Wales:”

The terms “parliamentary borough” and “borough” mean a city or borough as defined by the Parliamentary Electors Registration Act, 1843:

The other terms used in this Act have the same meaning as in the Parliamentary Electors Registration Act, 1843, and the enactments amending the same.

Interpretation.

7. This Act shall not extend to Scotland or Ireland.

Extent of Act.

*SCHEDULE (a).*

26 & 27 Vict. c. 122.	<i>An Act to enable Her Majesty in Council to make alterations in the circuits of the Judges.</i>	<i>Section four.</i>
35 & 36 Vict. c. 84.	<i>An Act to amend the Law relating to the appointment of Revising Barristers.</i>	<i>Section three.</i>

(c) And in an urban sanitary district containing more than ten thousand inhabitants in a county shall be published by the clerk of the peace; 48 & 49 Vict. c. 15, s. 4 (3).

(d) Applied to urban sanitary districts, containing more than ten thousand inhabitants, in counties; 48 & 49 Vict. c. 15, s. 4 (3).

(e) Twelfth; 51 & 52 Vict. c. 10, s. 6.

# Section 1. REVENUE OFFICERS ELECTORAL DISABILITIES REMOVAL ACT, 1874 (37 & 38 VICT. CAP. 22.)

*An Act to relieve Revenue Officers from remaining Electoral Disabilities (f).*  
[30th June, 1874.]

*Whereas an Act was passed in the session of Parliament holden in the thirty-first and thirty-second years of the reign of Her present Majesty, intituled "An Act to relieve certain officers employed in the collection and management of Her Majesty's Revenues from any legal disability to vote at the election of members to serve in Parliament:"*

*And whereas notwithstanding the passing of the said Act certain servants of the Crown in the Revenue Departments are still subject, at the suit of informers and others, to certain very severe penalties in relation to elections for members of Parliament, to which penalties other civil servants of the Crown are not subject:*

*And whereas it is desirable to abolish such penalties:*

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same:*

**1.** *The enactments contained in the schedule to this Act, and any enactments reviving or continuing the same or any of the enactments contained in the schedule to the Act of the thirty-second year of Her Majesty, chapter seventy-three, are hereby repealed.*

Enactments in  
schedule  
repealed.

## SCHEDULE.

### THE STATUTES OF THE REALM.

12 & 13 Will. 3, c. 10, s. 89 (g).

9 Anne, c. 11, s. 45 (h).

10 Anne, c. 18, s. 198 (i).

2 & 3 Vict. c. 71, s. 6.

# REVISING BARRISTERS ACT, 1874 (37 & 38 VICT. CAP. 53).

*An Act to amend the Law relating to the Payment of Revising Barristers.*  
[30th July, 1874.]

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows (k):*

Amendment of  
s. 59 of 6 & 7  
Vict. c. 16, as to

**1.** *Whereas doubts have arisen as to whether the provisions of the fifty-ninth section of the Parliamentary Electors Registration Act, 1843, with*

(f) Repealed by the Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39).

(g) Section 91, in Ruffhead's edition.

(h) Chapter 10, s. 44, in Ruffhead's edition.

(i) Chapter 19, s. 182, in Ruffhead's edition.

(k) Repealed by the Statute Law Revision (No. 2) Act, 1895 (56 & 57 Vict. c. 54).



respect to the payment of barristers appointed to revise any list of voters in addition to the revising barristers originally appointed, apply to the payment of substitutes appointed in case of the death, illness, or absence of any revising barrister, or from any other cause, and it is expedient to remove such doubts, and to provide for the payment of such substitutes (l) :

Be it therefore enacted that— (k)

Where by reason of the death, illness, or absence of any barrister appointed to revise the lists of voters for any county, city, or borough, or from any other cause, a barrister is after the passing of this Act appointed to act in the place of the barrister so originally appointed, there shall be paid to him out of the sum which under section fifty-nine of the Parliamentary Electors Registration Act, 1843, would otherwise be payable to the barrister originally appointed, such sum for his remuneration and travelling expenses as to the Lord Chief Justice or judge who appointed him may seem reasonable.

Every barrister so originally appointed, in forwarding to the Commissioners of Her Majesty's (k) Treasury his appointment, and the statement of having completed his sittings, shall state whether any barrister has or has not been appointed as above mentioned to act in his place.

2. Terms in this Act have the same meaning as in the Revising Barristers Act, 1873.

## Section 1.

payment of substitutes for revising barristers.  
P. 315.

same meanings as in 36 & 37 Vict. c. 70.

3. This Act shall not extend to Scotland or Ireland.

Extent of Act.

4. This Act may be cited as the Revising Barristers Act, 1874. The Act of the session of the thirty-fifth and thirty-sixth years of the reign of Her present Majesty, chapter eighty-four, intitled "An Act to amend the Law relating to the appointment of Revising Barristers," may be cited as the Revising Barristers Act, 1872.

Short titles of Acts.

This Act and the Revising Barristers Act, 1872, and the Revising Barristers Act, 1873, may be cited together as the Revising Barristers Acts, 1872 to 1874.

5. The Acts specified in the schedule to this Act are hereby repealed from and after the passing of this Act to the extent specified in the third column of that schedule, without prejudice to anything done or suffered before the passing of this Act under the enactments hereby repealed (f).

Provisions of Acts in schedule repealed.

6. No barrister shall be appointed after the passing of this Act (h) to revise any list of voters for any county, city, or borough in England who is of less than seven years' standing, unless he has been appointed in any year previous to the year one thousand eight hundred and seventy-three to be such revising barrister.

Qualification of revising barrister.

(c) The whole of 6 & 7 Vict. c. 18, s. 59 is repealed by 51 & 52 Vict. c. 10, s. 10 (4) in consequence of the provisions of 49 & 50 Vict. c. 42, being made perpetual and amended by 50 & 51 Vict. c. 10, s. 10 (1) (3).

## Schedule.

## SCHEDULE (m).

<i>Session and Chapter.</i>	<i>Title.</i>	<i>Extent of Repeal.</i>
6 & 7 Vict. c. 18.	<i>An Act to amend the Law for the Registration of persons entitled to vote, and to define certain rights of voting, and to regulate certain proceedings in the election of members to serve in Parliament for England and Wales.</i>	<i>Section twenty-nine from "Provided always that whenever" to the end of the section, and so much of the rest of the section as relates to the appointment of additional barristers in case of the insufficiency of the number of barristers originally appointed; and section fifty-nine from "Provided always that in the case of any barrister" to the end of the section.</i>
35 & 36 Vict. c. 84.	<i>An Act to amend the Law relating to the appointment of revising barristers.</i>	<i>The whole Act.</i>

## ELEMENTARY EDUCATION ACT, 1876 (39 &amp; 40 VICT. CAP. 79).

*An Act to make further provision for Elementary Education.*

[August 15th, 1876.]

*Whereas it is expedient to make further provisions for the education of children and for securing the fulfilment of parental responsibility in relation thereto, and otherwise to amend and extend the Elementary Education Acts:*

*Be it enacted by the Queen's most Excellent Majesty, by and with the consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows (a):*

\* \* \* \* \*

10. The parent, not being a pauper, of any child who is unable by reason of poverty to pay the ordinary fee for such child at a public elementary school, or any part of such fee, may apply to the guardians having jurisdiction in the parish in which he resides; and it shall be the duty of such guardians, if satisfied of such inability, to pay the said fee, not exceeding threepence a week, or such part thereof as he is, in the opinion of the guardians, so unable to pay.

The parent shall not by reason of any payment made under this section be deprived of any franchise, right, or privilege, or be subject to any disability, or disqualification (o).

(m) Repealed by the Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39).

(n) Preamble repealed by the Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56), and as to the clause of enactment see s. 4 of that Act.

(o) See 2 & 3 Will. 4, c. 45, s. 36, and 30 & 31 Vict. c. 102, s. 40, but see as to the abolition of school fees in certain cases ss. 2 and 3 of the Elementary Education Act, 1891 (54 & 55 Vict. c. 56).

HOUSE OCCUPIERS DISQUALIFICATION REMOVAL ACT, **Section 1.**  
1878. (41 & 42 VICT. CAP. 3.)

*An Act to relieve certain Occupiers of Dwelling-houses from being disqualified from the right of voting in the Election of Members to serve in Parliament by reason of their under-letting such Dwelling-houses for short terms.*  
[25th February, 1878.]

Whereas questions have arisen upon the occupation required by the third section of the Representation of the People Act, 1867:

30 & 31 Vict.  
c. 102.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act shall be cited for all purposes as the House Occupiers Short title. Disqualification Removal Act, 1878.

2. From and after the passing of this Act (p), every man shall be entitled to be registered and to vote under the provisions of the said section, notwithstanding that during a part of the qualifying period not exceeding four months in the whole he shall by letting or otherwise have permitted the qualifying premises to be occupied as a furnished house by some other person.

Letting as furnished house for certain periods not to disqualify.  
P. 191.

PARLIAMENTARY AND MUNICIPAL REGISTRATION ACT,  
1878. (41 & 42 VICT. CAP. 26.)

*An Act to amend the Law relating to the Registration of Voters in Parliamentary Boroughs and the Enrolment of Burgesses in Municipal Boroughs, and relating to certain rights of voting and proceedings before and appeals from Revising Barristers.*  
[22nd July, 1878.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows (q):

1. This Act may be cited as the Parliamentary and Municipal short titles. Registration Act, 1878.

The Acts referred to in this Act by short titles may be cited for all purposes by those titles respectively.

2. This Act shall not extend to Scotland or Ireland.

Extent of Act.

3. This Act shall come into operation on the first day of February one thousand eight hundred and seventy-nine, which date is in this Act referred to as the commencement of this Act (r).

Commencement of Act.

4. In this Act—

Definitions.

The term "Reform Act, 1832," means the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five, "to amend the representation of the people in England and Wales" (s):

(p) Repealed by the Statute Law Revision (No. 2) Act, 1893 (56 & 57 Vict. c. 54).

(q) See the Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56), s. 4.

(r) Repealed by the Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56).

(s) This Act is also entitled the Representation of the People Act, 1832. See the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

## Section 4.

3 & 6 Will. 4,  
c. 76.  
10 & 11 Vict.  
c. 69.

The term "Municipal Corporation Acts" means the Municipal Corporation Act, 1835, and the Acts amending the same (*t*):

The term "Parliamentary Registration Act, 1843,"<sup>b</sup> means the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter eighteen, "to amend the law for the registration of persons entitled to vote, and to define certain rights of voting and to regulate certain proceedings in the election of members to serve in Parliament for England and Wales (*u*):

The term "Parliamentary Registration Acts" means the Parliamentary Registration Act, 1843, and any enactment amending the same or otherwise relating to the registration of Parliamentary electors:

The term "parliamentary borough" means any borough, city, county of a city, county of a town, place or combination of places returning a member or members to serve in Parliament, and not being a county at large, or riding, part, or division of a county at large:

The term "municipal borough" means any place for the time being subject to the Municipal Corporation Acts:

The term "parliamentary voter" means a person entitled to be registered as a voter and when registered to vote at the election of a member or members to serve in Parliament for a parliamentary borough:

The term "burgess" has the same meaning as in the Municipal Corporation Acts (*x*):

The term "parish" means a place for which a separate poor-rate is or can be made, or for which a separate overseer is or can be appointed (*y*):

Other terms used in this Act have the same meaning as in the Parliamentary Registration Acts.

Explanation of  
terms "House,"  
etc.  
2 & 3 Will. 4,  
c. 45, s. 27.  
P. 140.

5. In and for the purposes of the Reform Act, 1832 (*z*), and the Municipal Corporation Acts, the terms "house, warehouse, counting-house, shop, or other building," shall include any part of a house where that part is separately occupied for the purpose of any trade, business, or profession; and any such part may for the purpose of describing the qualification be described as "office," "chambers," "studio," or by any like term applicable to the case.

In and for the purposes of the Representation of the People Act, 1867 (*a*), the term "dwelling-house" shall include any part of a house where that part is separately occupied as a dwelling, and the term "lodgings" shall include any apartments or place of residence, whether furnished or unfurnished, in a dwelling-house.

(*t*) A reference to the Municipal Corporations Act, 1882, is to be substituted for every reference to the Municipal Corporation Act, 1835, and the Acts amending the same. See 45 & 46 Vict. c. 50, s. 242, Schedule 1, Part I.

(*u*) This Act is also entitled the Parliamentary Voters Registration Act, 1843 (see the Short Titles Act, 1896 (59 & 60 Vict. c. 14)), and the Parliamentary Electors Registration Act, 1843 (see 36 & 37 Vict. c. 70, s. 6).

(*x*) Burgess includes citizen; 45 & 46 Vict. c. 50, s. 7. See also 45 & 46 Vict. c. 50, s. 9.

(*y*) Compare the definition in §. 5 of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), which is in precisely the same terms.

(*z*) See s. 27 of that Act, now repealed.

(*a*) See 30 & 31 Vict. c. 102, ss. 3, 4.

30 & 31 Vict.  
c. 102.  
"Dwelling-  
house."  
P. 191.  
"Lodgings."  
P. 231.



For the purposes of any of the Acts referred to in this section, where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part.

The interpretation contained in this section of "dwelling-house" shall be in substitution for the interpretation thereof contained in section sixty-one of the Representation of the People Act, 1867, but not so as to affect any of the other provisions of the said Act relating to rating.

6. (1) Lodgings occupied by a person in any year or two successive years shall not be deemed to be different lodgings by reason only that in that year or in either of those years he has occupied some other rooms or place in addition to his original lodgings.

(2) For the purpose of qualifying a lodger to vote, the occupation in immediate succession of different lodgings of the requisite value in the same house shall have the same effect as continued occupation of the same lodgings.

(3) Where lodgings are jointly occupied by more than one lodger, and the clear yearly value of the lodgings if let unfurnished is of an amount which when divided by the number of the lodgers gives a sum of not less than ten pounds for each lodger, then each lodger, if otherwise qualified and subject to the conditions of the Representation of the People Act, 1867, shall be entitled to be registered, and when registered to vote as a lodger, provided that not more than two persons being such joint lodgers shall be entitled to be registered in respect of such lodgings.

7. In every parliamentary borough and in every municipal borough every period of qualification for parliamentary voters and burgesses respectively which is now computed by reference to the last day of July, shall, instead of being so computed, be computed by reference to the fifteenth day of July.

The term "period of qualification" in this section shall include any period of occupation, residence, possession, receipt of rents and profits, and non-receipt of parochial relief or other alms (b).

8. *In every parliamentary borough and in every municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a parliamentary borough, the forms in the schedule to this Act, or forms to the like effect, varied as circumstances require, shall be used for the purposes for which the same are applicable respectively, and shall for the purposes of the Parliamentary Registration Acts and this Act be deemed to be substituted for any corresponding forms in the schedules to the Parliamentary Registration Acts.*

*The said schedule and the notes thereto shall be construed and have effect as if enacted in the body of this Act.*

*All precepts, instructions, proceedings, notices, and lists relating to the registration of parliamentary voters or enrolment of burgesses shall be expressed in such manner and form as may be necessary to carry the provisions of this Act into effect (c).*

## Section 5.

separate occupation of part not withstanding joint occupation of other part.  
30 & 31 Vict. c. 102, s. 61.

Additional lodgings.  
P. 232.

Successive lodgings in the same house.  
P. 232.

Joint occupation of lodgings.  
P. 237.

30 & 31 Vict. c. 102.

Period of qualification.

Forms relating to registration in parliamentary boroughs and burgess lists in certain municipal boroughs.

(b) This section is extended to freeholders in counties by 48 & 49 Vict. c. 15, s. 12.

(c) Repealed by the Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56) as superseded by the Registration Act, 1885 (48 & 49 Vict. c. 15, s. 18), and Schedule 3, which was superseded by the Registration Order, 1889. See now the Registration Order, 1895, Third Schedule.

## Section 9.

Publication of notices and lists in post and telegraph offices, etc.

9. In every parliamentary borough and in every municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a parliamentary borough, any notice or list which is by the Parliamentary Registration Acts or this Act directed to be published by overseers shall be published by them not only in the manner directed by those Acts (*d*), but also by being affixed and kept in some public and conspicuous position in or near every post-office and telegraph office occupied by or on behalf of Her Majesty's Postmaster-General, and in or near every public or municipal or parochial office within the parish to which the list relates.

All the provisions of those Acts with respect to the publication of notices or lists shall apply to the publication to be made under this section (*e*).

Notice of rates in arrear.  
6 & 7 Vict. c. 18, s. 11;  
30 & 31 Vict. c. 102, s. 28.  
P. 288.

10. Where the whole or part of the area of a municipal borough is co-extensive with or included in the area of a parliamentary borough, section eleven of the Parliamentary Registration Act, 1843, and section twenty-eight of the Representation of the People Act, 1867 (which relate to the notices to be published and given with respect to rates and taxes in arrear), shall, as amended by this Act, extend to the necessary modifications to the rates of which the payment is required as a condition of enrolment on the burgess roll, and all the provisions of those sections as so amended shall apply to the overseers of parishes situate wholly or partly in a municipal borough accordingly.

Any notice required to be given under this section shall be deemed to be duly given if delivered to the occupier or left at his last or usual place of abode, or with some person on the premises in respect of which the rate is payable.

30 & 31 Vict. c. 102, s. 28.

In case no such person can be found, then the notice required to be given under this section or under section twenty-eight of the Representation of the People Act, 1867, shall be deemed to be duly given if affixed upon some conspicuous part of the premises.

P. 320.

Any overseer who with intent to keep an occupier off the list or register of voters for a parliamentary borough, or off the burgess list or burgess roll of a municipal borough, shall wilfully withhold any notice required by this section to be given to such occupier, shall be deemed guilty of a breach of duty in the execution of this Act (*f*).

30 & 31 Vict. c. 102, s. 29.

Section twenty-nine of the Representation of the People Act, 1867, shall extend and be applicable to every parish situate wholly or partly within a municipal borough whose burgess lists are revised under this Act.

Registrars to furnish returns of deaths to overseers.  
P. 289.

11. Every registrar of births and deaths whose sub-district includes the whole or part of any parliamentary borough or any municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a parliamentary borough, shall transmit by post or otherwise to the overseers of every parish the whole or any part of

(*d*) See 6 & 7 Vict. c. 18, s. 23.

(*e*) This section is applied to the registration of occupation and ownership voters in counties by 48 & 49 Vict. c. 15, s. 1, subject to the modification that it shall apply only to the publication of notices within parishes situate wholly or partly in an urban sanitary district and not in a parliamentary borough. It is not to apply to any parish not situate in a municipal borough which is not situate in an urban district; 51 & 52 Vict. c. 10, s. 4 (1) (*e*).

(*f*) See s. 29, *post*.

which is included in the parliamentary borough or municipal borough, and also in his sub-district, a return certified under his hand to be a true return of the names, ages, and residences of all male persons of full age dying within that parish or part, and also when and as required by those overseers of the names, ages, and residences of all women of full age dying within that parish or part. **Section 11.**

The returns shall state the names of all such persons in full (where the names are known) and the dates of their deaths, and the names and residences of the persons by whom information of the deaths was given to the registrar.

The returns shall be made four times a year ; that is to say,

On or before the seventh day of April for the three months ending with the preceding thirty-first day of March ;

On or before the twenty-second day of July for the period beginning with the preceding first day of April and ending with the fifteenth day of July ;

On or before the *fifteenth (g)* day of September, or at such other time before the completion of the revision of the lists of the parliamentary borough or municipal borough to the area of which the return relates as the barrister revising the same shall appoint in that behalf for the period beginning with the preceding sixteenth day of July, and ending with the time when such return is made, or as near thereto as practicable ;

And on or before the seventh day of January for the period beginning with the preceding *fifteenth (g)* day of September or from the time for which the last preceding return was made, and ending with the thirty-first day of December :

The registrar making any such return shall be entitled to fees at the rate (*h*) specified in the twenty-eighth section of the Births and Deaths Registration Act, 1874, in respect of the returns therein mentioned, and such fees shall be paid by the overseers as part of the expenses of carrying into effect the provisions of this Act with respect to the list of Parliamentary voters and burgess lists (*i*). 37 & 38 Vict. c. 28, s. 25.

The overseers shall omit from any list made by them the name of any person who appears from such returns to be dead (*j*), and shall allow any person who is registered as a parliamentary voter of the parliamentary borough or enrolled as a burgess of the municipal borough to which the returns relate to inspect any such returns in their custody at all reasonable times free of charge.

12. The overseers of every parish situate wholly or partly either in a parliamentary borough or in a municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a parliamentary borough, shall ascertain from the relieving officer acting for that parish the names of all persons who are disqualified for being inserted in the lists of parliamentary voters or burgess lists for that parish by reason of having received parochial relief (*k*), and the relieving officer, upon application from the overseers, shall produce to them at List of persons disqualified by parochial relief Pp. 272, 289.

(*g*) Eighth ; 51 & 52 Vict. c. 10, s. 6.

(*h*) Twopence for each return and a further fee of twopence for every death entered in such return.

(*i*) See s. 30, *post*.

(*j*) As to expunging by the revising barrister of the names of persons included in the returns, see s. 28 (5), *post*.

(*k*) See 2 & 3 Will. 4, c. 45, s. 36.

**Section 12.** such place within the parish, and at such time as is required by them, the books in his possession containing the names of those persons (*k*).

Inspection of  
rate books.

13. In every parish situate wholly or partly either in a parliamentary borough or in a municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a parliamentary borough, the books containing the poor rates made for the parish within the previous two years shall at all reasonable times be open, free of charge, to the inspection of any person who is registered as a parliamentary voter for the parliamentary borough, or enrolled as a burgess of the municipal borough, and any such voter or burgess may make any copy thereof or take any extract therefrom (*l*).

Explanation of  
32 & 33 Vict.  
c. 41, s. 12, as to  
entering occu-  
pier's name in  
rate book.  
P. 170.

14. *Whereas by section nineteen of the Poor Rate Assessment and Collection Act, 1869, the overseers in making out the poor rate are required in every case, whether the rate is collected from the owner or occupier, or the owner is liable to the payment of the rate instead of the occupier, to enter into the occupier's column of the rate book the name of the occupier of every rateable hereditament, and it is thereby declared that every such occupier shall be deemed to be duly rated for any qualification or franchise as therein mentioned: and whereas doubts have been entertained as to the application of this enactment, and it is expedient to remove them: Be it therefore enacted that (m) the recited enactment shall not be deemed to apply exclusively to cases where an agreement has been made under section three of the same Act, or where an order has been made under section four of the same Act, but shall be of general application.*

Preparation of  
lists of parlia-  
mentary voters  
and burgess  
lists together in  
certain cases.  
P. 289.

15. Where the whole or part of the area of a municipal borough is co-extensive with or included in the area of a parliamentary borough, the lists of parliamentary voters and the burgess lists shall so far as practicable be made out and revised together.

In every such case the overseers of every parish situate wholly or partly either in the parliamentary borough or in the municipal borough shall, on or before the last day of July in every year, make out a list of all persons entitled under any right conferred by the Reform Act, 1832, or by section three of the Representation of the People Act, 1867, to be registered as voters for the parliamentary borough in respect of the occupation of property situate wholly or partly within that parish, or entitled to be enrolled as burgesses of the municipal borough in respect of the occupation of any property so situate (*n*).

With respect to every list so made out the following provisions shall have effect:

- (1) The lists shall be in substitution for the lists of persons so entitled, which are required to be made out under the Parliamentary Registration Acts and the Municipal Corporation Acts:
- (2) Where the parish is situate wholly or partly both in the parliamentary borough and in the municipal borough, the list for the parish shall be made out in three divisions:

(*k*) As to voters obtaining information of persons disqualified, see 48 & 49 Vict. c. 15, s. 16.

(*l*) See also 6 & 7 Vict. c. 18, s. 16.

(*m*) Words in italics repealed by the Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56).

(*n*) As to burgess qualification, see 45 & 46 Vict. c. 50, ss. 9, 31, 32, 33, and 63, and 51 & 52 Vict. c. 10, s. 3.

2 & 3 Will. 4,  
c. 45.  
30 & 31 Vict.  
c. 102, s. 3.



Division One shall comprise the names of the persons entitled both to be registered as parliamentary voters under a right conferred as aforesaid and to be enrolled as burgesses ;

# Section 15.

Division Two shall comprise the names of the persons entitled to be registered as parliamentary voters under a right conferred as aforesaid, but not to be enrolled as burgesses ;

Division Three shall comprise the names of the persons entitled to be enrolled as burgesses, but not to be registered as parliamentary voters under a right conferred as aforesaid :

(3) Each list shall state the surname and other name or names of every person whose name is inserted therein, his place of abode, the nature of his qualification, and the situation and description of the property in respect of which he is entitled :

(4) Each list shall be signed and otherwise dealt with in manner directed by the Parliamentary Registration Acts with respect to the alphabetical lists mentioned in section thirteen of the Parliamentary Registration Act, 1843 : (o)

6 & 7 Vict. c. 18, s. 13.

(5) Where no part of the parish is situate within the municipal borough, the list for the parish shall be deemed to be a list of voters for the parliamentary borough :

(6) Where no part of the parish is situate within the parliamentary borough, the list for the parish shall be deemed to be a Burgess list for the municipal borough :

(7) Where a list is made out in divisions, Divisions One and Two shall be deemed to be lists of voters for the parliamentary borough, and Divisions One and Three shall be deemed to be Burgess lists for the municipal borough :

(8) The lists, and if the lists are made out in divisions, each division thereof, shall, if and so far as the local authority (p) from time to time direct, according to convenience for use, be framed in parts for polling districts or wards ; and where the polling districts and wards are not conterminous, in such manner that the parts may be conveniently compiled or put together to serve either as lists for polling districts or as ward lists.

P. 359.

16. In the case of any parliamentary borough in which any persons are entitled to be registered as freemen, or under any right other than a right conferred by the Reform Act, 1832, or the third section of the Representation of the People Act, 1867, the registration of such persons shall be carried out in the manner directed by the Parliamentary Registration Acts, as modified by this Act (q).

Freemen's and other rights.

2 & 3 Will. 4, c. 45.

30 & 31 Vict. c. 102, s. 3.

17. In the case of a parliamentary borough which includes in whole or in part more municipal boroughs than one, each such municipal borough shall, for the purposes of this Act, be dealt with separately and as if each were the only municipal borough included in whole or in part in such parliamentary borough, and if any parish is partly in one and partly in another or others of such municipal boroughs, so much thereof as is in any one of such municipal boroughs shall, for the purposes of this Act, be dealt with as a separate parish.

Provision where several municipal boroughs included in one parliamentary borough.

The town clerk of each such municipal borough shall, so far as regards the area of such municipal borough, issue the precepts and

P. 282.

(o) *Ante*, p. 405.

(p) Defined in s. 21, *post*.

(q) This section is not to apply to counties except as to registration of lodgers ; 48 & 49 Vict. c. 15, s. 1 (3) (d).

**Section 17.** perform the other duties to be performed by the town clerk under and shall be the town clerk for the purposes of the Parliamentary Registration Acts and this Act.

Application of  
Parliamentary  
Registration  
Acts to burgess  
lists made out  
under this Act.

18. The Municipal Corporation Acts (c) shall not, as to anything prior to the completion of the revision of the burgess lists, apply to any burgess list made out under this Act, and instead thereof the Parliamentary Registration Acts, as modified by this Act, shall, up to the completion of the revision of the burgess lists, apply to every such burgess list, as if it were a list of parliamentary voters made out under those Acts, and as if the municipal borough to which such burgess lists relate were a parliamentary borough: Provided as follows:

P. 295.

- (1) Nothing in this Act shall authorize a person entered on a burgess list, not being also entered on a list of parliamentary voters, to make any objection in respect of a list of parliamentary voters, or authorize any person entered on a list of parliamentary voters, not being also entered on a burgess list, to make any objection in respect of a burgess list;
- (2) The last day for revising a burgess list made out under this Act shall be the twelfth day of October; and
- (3) The burgess lists when revised shall be copied for the burgess roll in manner directed by the Municipal Corporation Acts (s).

Lists of persons  
qualified to be  
aldermen or  
councillors, but  
not to be  
burgesses.

P. 289.

19. Where the whole or part of the area of a municipal borough is co-extensive with or included in the area of a parliamentary borough, the separate lists of the persons entitled to be elected councillors or aldermen of the municipal borough, though not entitled to be on the burgess roll, shall be made out at the same time and in the same manner as the burgess lists, and all the provisions of this Act with respect to the burgess lists shall apply to those separate lists (t).

20. [Abolition of revising assessors in municipal boroughs which as to the whole or part of their areas are co-extensive with or included in parliamentary boroughs] (u).

Lists and  
registers may be  
arranged  
according to  
streets.

P. 359.

21. If and so far as the local authority so direct, the lists of parliamentary voters and registers of parliamentary voters in parliamentary boroughs (x), and the burgess lists and burgess rolls in municipal boroughs, and the lists of claimants and persons objected to in parliamentary boroughs and municipal boroughs respectively, or any of those documents, shall, so far as they relate to persons qualified in respect of the ownership or occupation of property (including persons qualified in respect of lodgings), be arranged in the same order in which the qualifying premises appear in the rate book for the parish in which those premises are situate, or as nearly thereto as will cause those lists, registers, and rolls to record the qualifying premises in successive order in the street or other place in which they are situate, subject in the case

(c) See now 45 & 46 Vict. c. 50, s. 44.

(s) See now 45 & 46 Vict. c. 50, s. 45, and as to county electors' lists and county register, 51 & 52 Vict. c. 10, s. 7.

(t) See now 45 & 46 Vict. c. 50, s. 49, and as to separate non-resident list for county councils, 51 & 52 Vict. c. 10, s. 12.

(u) Repealed by 45 & 46 Vict. c. 50, s. 5, and First Schedule, Part I., *post*. Revising assessors abolished in all other municipal boroughs by 51 & 52 Vict. c. 10, s. 4 (1) (a).

(x) As to parliamentary boroughs of which the whole or the greater part is situate in the metropolis, see 51 & 52 Vict. c. 10, s. 5.

of a municipal borough divided into wards to the division of the burghess roll into ward lists. The local authority in this Act means as regards a parliamentary borough the authority having power to divide the parliamentary borough into polling districts (*y*), and as regards a municipal borough the council of the municipal borough (*z*). **Section 21.**

22. Where a person is entered in respect of lodgings on the register of voters for the time being in force, and desires to be entered on the next register in respect of the same lodgings, he may claim to be so entered by sending notice of his claim (*a*) to the overseers of the parish in which his lodgings are situate on or before the twenty-fifth day of July. Claim by lodger retaining same lodgings in successive years. P. 294.

The overseers shall on or before the last day of July make out a list (*b*) of all persons so claiming, and if they have reasonable cause to believe that any person whose name is entered on the list is not entitled to be registered or is dead, shall add in the margin of the list opposite his name the words "objected to" or "dead," as the case may be. P. 289.

The lists so made out shall be signed, published, and otherwise dealt with in the same manner as the alphabetical lists mentioned in section thirteen of the Parliamentary Registration Act, 1843 (*c*), and shall for the purposes of the Parliamentary Registration Acts be deemed to be lists of voters, and the provisions of the Parliamentary Registration Acts as to objections (*d*) shall apply to such lists, and the persons against whose names the overseers have so written the words "objected to" or "dead," shall be deemed to be duly objected to. 6 & 7 Vict. c. 18.

23. In the case of a person claiming to vote as a lodger, the declaration annexed to his notice of claim shall, for the purposes of revision, be *prima facie* evidence of his qualification (*e*). Declaration of lodger to be *prima facie* evidence. P. 355.

24. Any person who is entered on any list of voters for a parliamentary borough or any burghess list, subject to revision under this Act, for a municipal borough, and whose name or place of abode or the nature of whose qualification or the name or situation of whose qualifying property is not correctly stated in such list, or in respect of whom there is any other error or omission in the said list, may, whether he has received a notice of objection or not, if he thinks fit, make and subscribe a declaration [*in the form in that behalf in the schedule to this Act (f), or as near thereto as the circumstances will admit*] (*g*), before any justice of Declaration as to misdescription. P. 328.

(*y*) See 30 & 31 Vict. c. 102, s. 34; 31 & 32 Vict. c. 58, s. 18, and 51 & 52 Vict. c. 41, s. 3 (xii).

(*z*) This section not to apply to parliamentary counties, 48 & 49 Vict. c. 15, s. 1 (3); nor to a parish not situate in a municipal or parliamentary borough, 51 & 52 Vict. c. 10, s. 4.

(*a*) Forms, see Registration Order 1895, Third Schedule, Form (H.), No. 2; and in counties, *ibid.*, Second Schedule, Form (H.), No. 2.

(*b*) Forms, see Registration Order, 1895, Third Schedule, Form (D.), No. 3; and in counties, *ibid.*, Second Schedule, Form (D.), No. 3.

(*c*) *Ante*, p. .

(*d*) See 6 & 7 Vict. c. 18, ss. 7, 17, and 28 & 29 Vict. c. 36, ss. 7 and 8, and s. 26 of this Act.

(*e*) Forms; see note (*a*) above.

(*f*) Superseded, Registration Order, 1895, Second and Third Schedules, Forms (M.).

(*g*) Words in italics repealed by the Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56.)

**Section 24.** the peace or any commissioner or other person authorized to administer oaths in the Supreme Court of Judicature.

P. 285. The declaration shall be duly dated and shall on or before the *twelfth (h)* day of September be sent to the town clerk, who forthwith shall endorse on the declaration a memorandum signed or initialed by him, stating the date when he received it, and naming the declarant, and the list to which the declaration refers, and shall deliver all such declarations to the revising barrister at his first court.

P. 355. If the declaration is sent as aforesaid in due time (of which the said indorsement shall be *prima facie* proof), the revising barrister shall receive the declaration as evidence of the facts declared to, and that without proof of the signature of the declarant, or of the justice, commissioner, or person before whom the declaration purports to have been subscribed, unless he has good reason to doubt the genuineness of any signature thereto.

P. 285. The declaration shall be open free of charge to public inspection at the office of the said town clerk, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day except Sunday, before the *fifteenth (i)* day of September, and he shall deliver copies thereof on application and payment of the price of fourpence per folio of seventy-two words (*k*).

Penalty for false declaration. **25.** If any person falsely or fraudulently signs any such declaration as last aforesaid, or any declaration either as claimant or witness in respect of a claim to vote as a lodger in the name of any other person, whether that person is living or dead, or in a fictitious name, or sends as genuine any false or falsified declaration knowing the same to be false or falsified, or knowingly or wilfully makes any false statement of fact in any declaration of the nature aforesaid, he shall be guilty of a misdemeanor and punishable by fine or by imprisonment for a term not exceeding one year, and the revising barrister shall have power to impound the declaration (*k*).

Notice of objection to state specific grounds of objection, etc. **26.** The notice required by the seventeenth and twentieth sections of the Parliamentary Registration Act, 1843 (*l*), to be given to persons objected to in boroughs for the purposes of the revision of the lists of voters for a parliamentary borough and the burgess lists for a municipal borough whose burgess lists are revised under this Act, shall state specifically the ground or grounds of objection, and sections seven and eight of the County Voters Registration Act, 1865 (*m*), shall extend to such objections.

Revision of lists of voters. **27.** For the purposes of the revision of the lists of voters for a parliamentary borough, and the burgess lists for a municipal borough whose burgess lists are revised under this Act—

Objections may be withdrawn. **(1)** An objection may be withdrawn by a notice to that effect in writing, signed by the objector (*n*), and given to the person objected to and to the town clerk (*o*) not less than seven days before the day which shall be appointed for the holding of the first court of revision of the list to which the objection relates :

(*h*) Fifth ; 51 & 52 Vict. c. 10, s. 6.

(*i*) Eighth ; 51 & 52 Vict. c. 10, s. 6.

(*l*) *Ante*, p. 407.

(*k*) Cp. 28 & 29 Vict. c. 36, ss. 10, 11.

(*m*) *Ante*, p. 432.

(*n*) Forms, see Registration Order, 1895, Second and Third Schedules, Forms (N.).

(*o*) In counties "overseers;" 48 & 49 Vict. c. 15, s. 1(3) (*f*).



- (2) Any objection by a qualified objector may, after his death, be revived by any other person qualified to have made the objection originally by a notice to that effect in writing signed by him (*p*), and given to the person objected to and to the town clerk (*o*) at or before the time of the revision of the entry to which the objection relates : **Section 27.**  
Reviver of objections on death of objector.  
P. 309.

A person reviving an objection shall be deemed to have made the objection originally, and he shall be responsible in respect thereof, and the proceedings thereon shall be continued accordingly :

- (3) Where objection is made otherwise than by an overseer to any person whose name appears on a list of voters or burgesses and the name is retained on the list, the revising barrister shall, unless he is of opinion that the objection was reasonably made either because of a defect or error in the entry to which the objection relates, or because of a difficulty in verifying or identifying the particulars comprised in such entry, or unless the objection is duly withdrawn, or unless for some other special reason he otherwise determines, order costs not exceeding forty shillings to be paid by the objector to the person objected to (*q*). Costs of objections.  
P. 356.

**28.** A revising barrister shall, with respect to the lists of voters for a parliamentary borough and the burgess lists for a municipal borough which he is appointed to revise, perform the duties and have the powers following : Duties and powers of revising barrister.

- (1) He shall correct any mistake which is proved to him to have been made in any list : Mistakes.  
P. 324.
- (2) He may correct any mistake which is proved to him to have been made in any claim or notice of objection : Pp. 343, 351.
- (3) He shall expunge the name of every person, whether objected to or not, whose qualification as stated in any list is insufficient in law to entitle such person to be included therein : Qualifications insufficient in law.  
P. 335.
- (4) He shall expunge the name of every person who, whether objected to or not, is proved to the revising barrister to be dead : Deaths.  
p. 336.
- (5) Where any entry in any list and an entry in a return made to the overseers of deaths (*r*) appear to relate to the same person, the revising barrister shall inquire whether such entries relate to the same person, and on proof being made to him that the entries relate to the same person shall expunge the entry in the list therefrom :
- (6) The revising barrister shall expunge the name of every person, whether objected to or not, whose name or place of abode, or the nature of whose qualification, or the name or situation of whose qualifying property, if the qualification is in respect of property, or any other particulars respecting whom by law required to be stated in the list, is or are either wholly omitted Omissions and descriptions insufficient for identification.  
P. 336.

(*p*) Forms, see Registration Order, 1895, Second and Third Schedules, Forms (O.).

(*q*) This section is applied to the objections to occupation and ownership voters in counties (subject to note (*o*) above), by 48 & 49 Vict. c. 15, s. 1, and to objections to county electors (subject as to parishes not within a parliamentary or municipal borough to note (*o*) above) by 51 & 52 Vict. c. 10, s. 4.

(*r*) See s. 11, *ante*, p. 482.

## Section 28.

or in the judgment of the revising barrister insufficiently described for the purpose of being identified, unless the matter or matters so omitted or insufficiently described be supplied to the satisfaction of the revising barrister before he shall have completed the revision of the list in which the omission or insufficient description occurs, and in case such matter or matters shall be so supplied, he shall then and there insert the same in such list :

Legal  
incapacity.  
P. 337.

- (7) He shall expunge the name of every person, whether objected to or not, where it is proved to the revising barrister that such person was, on the last (s) day of July then next preceding, incapacitated by any law or statute from voting at an election for the parliamentary borough or an election for the municipal borough, as the case may be, to which the list relates :

Notice before  
expunging.  
P. 338.

- (8) Before expunging from a list the name of any person not objected to, the revising barrister shall cause such notice, if any, as shall appear to him necessary or proper under the circumstances of the proposal to expunge the name, to be given to or left at the usual or last known place of abode of such person :

General obligation to retain.  
P. 324.

- (9) Subject as herein and otherwise by law provided, the revising barrister shall retain the name of every person not objected to, and also of every person objected to, unless the objector appears by himself or by some person on his behalf in support of his objection :

Proof of  
objections.  
P. 342.

- (10) If the objector so appears the revising barrister shall require him, unless he is an overseer, to prove that he gave the notice or notices of objection required by law to be given by him, and to give *prima facie* proof of the ground of objection, and for that purpose may himself examine and allow the objector to examine the overseers or any other person on oath (t) touching the alleged ground of objection, and unless such proof is given to his satisfaction shall, subject as herein and otherwise by law provided, retain the name of the person objected to :

An objection made under this Act by overseers shall be deemed to cast upon the person objected to the burden of proving his right to be on the list :

P. 348.

The *prima facie* proof shall be deemed to be given by the objector if it is shown to the satisfaction of the revising barrister by evidence, repute, or otherwise that there is reasonable ground for believing that the objection is well founded, and that by reason of the person objected to not being present for examination, or for some other reason, the objector is prevented from discovering or proving the truth respecting the entry objected to :

Op. 342, 348.

- (11) If such proof is given by the objector as herein prescribed, or if the objection is by overseers, then unless the person objected to appears by himself or by some person on his behalf, and proves that he was entitled on the last (u) day of July then next preceding to have his name inserted in the list in respect of the qualification described in such list, the revising barrister shall expunge the name of the person objected to :

(s) But see s. 7, *ante*, p. 481, which applies to incapacitation by receipt of parochial relief or other alms.

(t) Includes "affirmation;" 52 & 53 Vict. c. 63, s. 3.

(u) But see s. 7, *ante*, p. 481.

- (12) Where the matter stated in a list or claim, or proved to the revising barrister in relation to any alleged right to be on any list, is in the judgment of the revising barrister insufficient in law to constitute a qualification of the nature or description stated or claimed, but sufficient in law to constitute a qualification of some other nature or description, the revising barrister, if the name is entered in a list for which such true qualification in law is appropriate, shall correct such entry by inserting such qualification accordingly, and in any other case shall insert the name with such qualification in the appropriate list, and shall expunge it from the other list, if any, in which it is entered : Section 28.  
—  
Proof of  
different qual-  
ification.  
Pp. 324, 327.
- (13) Except as herein provided (*x*), and whether any person is objected to or not, no evidence shall be given of any other qualification than that which is described in the list or claim, as the case may be, nor shall the revising barrister be at liberty to change the description of the qualification as it appears in the list except for the purpose of more clearly and accurately defining the same : Pp. 324, 328.
- (14) Where the name of any person appears to be entered more than once as a parliamentary voter on the lists of voters for the same parliamentary borough, or more than once as a burgess on the burgess lists for the same municipal borough, the revising barrister shall inquire whether such entries relate to the same person, and on proof being made to him that such entries relate to the same person shall retain one of the entries for voting, and place against the other or others a note to the effect that the person is not entitled to vote in respect of the qualification therein contained for the parliamentary borough or for the municipal borough, as the case may be, he being on the list for voting in respect of another qualification (*y*) : Double entries.  
P. 339.
- Any such person may, by notice in writing delivered to the revising barrister at the opening of his first revision court, select the entry to be retained for voting, and in making such selection may select one entry to be retained for voting for the parliamentary borough, and another entry to be retained for voting as a burgess for the municipal borough, but if he does not make any selection the entry to be so retained shall be selected by the revising barrister, except in the case of freemen, in which case the entry to be retained by the revising barrister for voting shall be that on the freemen's list : P. 340.
- If any question on appeal, or otherwise, arise as to the validity of the qualification for which the parliamentary voter or burgess is on the list for voting, recourse may be had for supporting the right of the voter or burgess to be on the parliamentary register or burgess roll for voting to any other qualification of such person appearing on the register or burgess roll :
- Provided always, that in the case of a municipal borough divided into wards a vote given in or the right to vote in one ward shall not be supported by a qualification appearing on the burgess roll for some other ward (*z*) :

(*x*) See s. 24, *ante*, p. 477.

(*y*) But now see 56 & 57 Vict. c. 73, s. 44 (6).

(*z*) This sub-section is not to apply to parliamentary counties, and s. 4 (9) is substituted for it by 48 & 49 Vict. c. 15, s. 4. As to the entry to be retained in pursuance of this sub-section, see 48 & 49 Vict. c. 45, s. 5.

**Section 28.** (15) Where a list is made out in divisions (*e*) the revising barrister shall place the name of any person in the division in which it should appear according to the result of the revision, regard being had to the title of the person to be on the list both as a parliamentary voter and as a burgess, or only in one of those capacities, and shall expunge the name from the other division (if any) in which it appears.

Lists made out  
in divisions.

P. 357.

This section shall, as regards every parliamentary borough and every municipal borough whose burgess lists are revised under this Act, take effect instead of section forty of the Parliamentary Registration Act, 1843 (*b*).

6 & 7 Vict.  
c. 18, s. 40.

Power to fine  
overseers for  
neglect of duty.  
Pp. 319, 323.

6 & 7 Vict.  
c. 18, s. 51.

Expenses and  
receipts.

Pp. 291, 292, 363.

30 & 31 Vict.  
c. 102, s. 31.

**29.** The provisions of the fifty-first section of the Parliamentary Registration Act, 1843 (*c*), relating to the power of the revising barrister to fine overseers for neglect of duty, shall extend to every wilful refusal, neglect, or breach of duty on the part of overseers in the execution of this Act (*d*).

**30.** Where the whole or part of the area of a municipal borough is co-extensive with or included in the area of a parliamentary borough, the expenses properly incurred by the town clerk (including in his expenses the matters mentioned in section thirty-one of the Representation of the People Act, 1867 (*e*)), and the expenses properly incurred by the overseers (*f*) in carrying into effect the provisions of this Act with respect to the lists of parliamentary voters and burgess lists and all moneys received in respect of any of those lists (*g*), or in respect of any fine imposed by the revising barrister on the revision of the lists, shall be respectively paid and applied as follows :

Co-extensive  
parliamentary  
and municipal  
boroughs.

(1) If the area of the parliamentary borough and the area of the municipal borough are co-extensive, one half of the expenses shall be defrayed in the manner provided by the Parliamentary Registration Acts as expenses incurred thereunder (*h*), and the other half shall be defrayed out of the borough fund (*i*), and one half of the moneys received as aforesaid shall be applied in the manner directed in those Acts (*j*), and the other half shall be paid to the borough fund :

Boroughs partly  
parliamentary  
and partly  
municipal.

(2) In all other cases the expenses and receipts in respect of the area common to the parliamentary borough and to a municipal borough shall, as to one-half thereof, be defrayed and applied as expenses and receipts under the Parliamentary Registration Acts, and shall as to the other half thereof be defrayed out of and paid to the borough fund of such municipal borough :

(*a*) See s. 15 (2), *ante*, p. 474.

(*b*) Section 40 of the Parliamentary Registration Act, 1843, is now repealed, and subject to note (*z*) on previous page the whole of this section is applied to the registration of voters in counties by 48 & 49 Vict. c. 15, s. 1.

(*c*) *Ante*, p. 421.

(*d*) This section is applied to the registration of occupation and ownership voters in counties by 48 & 49 Vict. c. 15, s. 1.

(*e*) *Ante*, p. 452.

(*f*) Including fees payable to registrars of births and deaths under s. 11, *ante*, p. 482.

(*g*) Proceeds of sale of burgess lists and roll to be subject to this section ; 45 & 46 Vict. c. 50, s. 48.

(*h*) See 6 & 7 Vict. c. 18, ss. 55 and 57, *ante*, p. 422.

(*i*) See 45 & 46 Vict. c. 50, ss. 140, 141, and Sched. 5.

(*j*) See 6 & 7 Vict. c. 18, s. 53, *ante*, p. 422.



And the expenses and receipts in respect of an area exclusively parliamentary shall be defrayed and applied as expenses and receipts under the Parliamentary Registration Acts (*k*):

## Section 30.

And the expenses and receipts of an area exclusively municipal shall be defrayed out of and paid to the borough fund of the municipal borough comprising such area:

Any expenses and receipts incurred or arising in respect of more than one such area shall be apportioned between the several areas in respect of which they are incurred or arise, in the proportion as nearly as may be in which the same are incurred and arise in respect of the several areas, regard being had to the number of parliamentary voters or burgesses in each area, or any other circumstances occasioning the expenses or giving rise to the receipts:

The revising barrister shall, as part of the business of the revision, determine, if necessary, in respect of what area or areas any expenses or receipts are incurred or arise, and how much thereof is attributable to each area. P. 291.

[As to the remuneration of the revising barrister] (*l*).

31. The lists, if made out in divisions under this Act, shall when revised be delivered to the town clerk, to whom in respect of the area to which the lists relate revised parliamentary lists ought to be delivered. Delivery and custody of revised lists. P. 338.

The revising barrister shall as part of the business of the revision, at the request of the town clerk of any municipal borough the whole or part of the area of which is co-extensive with or included in the area of a parliamentary borough, sign and deliver to him a duplicate of the whole or part of any revised list made out in divisions and relating to that municipal borough.

Every such duplicate shall be prepared by the town clerk at whose request it is so signed, and shall be kept by him for use for municipal purposes (*m*). P. 353.

32. The register made up from revised lists under the Parliamentary Registration Acts and this Act of voters for any parliamentary borough shall come into operation on the first day of January next after the revision, and shall continue in operation for the year commencing with such first day of January. Commencement and duration of parliamentary register. P. 361.

33. The burgess roll made up from revised lists under this Act of burgesses for any municipal borough shall come into operation on the first day of November next after the revision, and shall continue in operation for the year commencing with such first day of November (*n*). Commencement and duration of burgess roll. P. 362.

34. [*Construction of Municipal Elections Act, 1875*] (*o*).

35. Where burgess lists are revised under this Act, the provisions of the Parliamentary Registration Acts as to appeal from the decision of Appeal and correction of burgess

(*k*) See now 54 & 55 Vict. c. 18, s. 2, *post*.

(*l*) The remainder of this section relating to the remuneration of revising barristers is repealed by Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56), because other provision on the subject is now made by the Registration of Electors Act, 1891 (54 & 55 Vict. c. 18).

(*m*) Duplicate to have same effect as original: 45 & 46 Vict. c. 50, s. 45 (7).

(*n*) See now 45 & 46 Vict. c. 50, s. 45 (2); 51 & 52 Vict. c. 10, s. 7.

(*o*) Repealed by 45 & 46 Vict. c. 50, s. 1, Schedule 1, Part I.

**Section 35.** the revising barrister (*p*) shall apply to a decision on the revision of the burgess lists, and the provisions of the said Acts as to the alteration or correction of the register in pursuance of any judgment or order of the court of appeal (*q*) shall apply to the alteration or correction of the burgess roll made up from the burgess lists as if it were a register of parliamentary voters, except that the notice of the judgment or order shall be given to the town clerk having the custody of the burgess roll, and the alteration or correction shall be made and signed by him (*r*).

roll where  
burgess lists are  
revised under  
this Act.

Pp. 365, 385.

Power for  
revising  
barrister to  
summon  
witnesses.

Pp. 318, 321.

**36.** A revising barrister may by summons under his hand require any person to attend at the court and give evidence or produce documents for the purpose of the revision, and any person who after the tender to him of a reasonable amount for his expenses fails so to attend, or who fails to answer any question put to him by the revising barrister in pursuance of this section, or to produce any document which he is required in pursuance of this section to produce, shall be liable to pay such fine not exceeding five pounds as may be imposed by the revising barrister, and such fine may be recovered, and when recovered shall be applied in like manner as any other fine imposed by the revising barrister under the Parliamentary Registration Acts (*s*).

Appeal where  
revising  
barrister  
neglects or  
refuses to state  
case.

P. 373.

**37.** If any person feels aggrieved by a revising barrister neglecting or refusing to state any case, he may, within one month after such neglect or refusal, apply to the High Court of Justice upon affidavit of the facts for a rule calling on the revising barrister, and also on the person, if any, in whose favour the decision from which the applicant desires to appeal was given, to show cause why a rule should not be made directing the appeal to be entertained and the case to be stated, and thereupon the High Court, or any judge thereof in chambers, may make such rule to show cause, and make the same absolute, or discharge it with or without payment of costs as seems just, and the revising barrister on being served with any such rule absolute shall state the case accordingly, and the case shall be stated, and the appeal entertained and heard, notwithstanding any limitations of time or place contained in the Parliamentary Registration Act, 1843 (*t*).

Costs of appeal.

P. 383.

**38.** The costs of an appellant against a decision of a revising barrister may, if the appeal is successful, be ordered by the court hearing the appeal to be paid by the clerk of the peace or town clerk named as respondent in the said appeal, whether he shall or shall not appear before the said court in support of the decision.

P. 368.

For enabling an appellant to obtain such an order he may at or before the time of making his declaration of appeal under section forty-two of the Parliamentary Registration Act, 1843 (*u*), require the revising barrister to name the clerk of the peace for the county or the town clerk for the parliamentary borough or municipal borough, as the case may be, to which the appeal relates to be respondent in the appeal.

c & 7 Vict.  
c. 18, s. 42.

The revising barrister if so required shall, and in any case may, name such clerk of the peace or town clerk, as the case may be, to be respondent in an appeal, either alone or in addition to any other person

(*p*) See 6 & 7 Vict. c. 18, ss. 42 *et seq.*, *ante* p. 416.

(*q*) 6 & 7 Vict. c. 18, s. 67, *ante*, p. 425.

(*r*) See now 45 & 46 Vict. c. 50, s. 47 (1).

(*s*) 6 & 7 Vict. c. 18, ss. 52, 53, *ante*, p. 422.

(*t*) 6 & 7 Vict. c. 18, ss. 42, 43, 62, and 64.

(*u*) *Ante*, p. 416.

referred to in section forty-three of the Parliamentary Registration Act, 1843 (*v*). **Section 38.**

The expenses properly incurred by a clerk of the peace or town clerk as respondent, including any costs which he may be ordered to pay to the appellant in any such appeal, shall be allowed to him as part of the expenses incurred by him in respect of the revision of the list to which the appeal relates. The term "expenses" in this section shall include all matters mentioned in section thirty-one of the Representation of the People Act, 1867 (*w*). 6 & 7 Vict. c. 18, s. 43.  
P. 364.  
30 & 31 Vict. c. 102, s. 31.

The costs of an appeal against a decision of a revising barrister shall be in the discretion of the court hearing the appeal, subject, except as aforesaid, to the proviso contained in section seventy of the Parliamentary Registration Act, 1843 (*v*). 6 & 7 Vict. c. 18 s. 50.

39. The authority having power to make rules for regulating the practice and procedure in Her Majesty's High Court of Justice may from time to time make, and when made alter and annul, rules for regulating the practice and procedure in the courts of revising barristers for the purposes of the Parliamentary Registration Acts and of this Act. Power to make rules for proceedings at revision courts.  
P. 322.

All rules made under this section shall be laid before each House of Parliament within forty days next after the same are made, if Parliament is then sitting, and if not, within forty days after the beginning of the then next sitting of Parliament, and if an address is presented to her Majesty by either of the said Houses within the next subsequent forty days on which the said House shall have sat praying that any such rule be annulled, Her Majesty may by Order in Council annul the same, and any rule so annulled shall thenceforth be of no effect, but without prejudice to the validity of any proceedings in the meantime taken thereunder. Rules to be laid before Parliament.

All such rules shall while in force have effect as if enacted in this Act (*y*).

40. The provisions of section one hundred and one of the Parliamentary Electors Registration Act, 1843 (*z*), as to the service of notices shall apply to the service of notices under this Act. Service of notices.  
6 & 7 Vict. c. 18, s. 101.  
P. 312.

The term "notice" in the Parliamentary Registration Acts and this Act shall include any document required to be sent or delivered.

41. [*Application of section thirteen of the Ballot Act, 1872, to municipal elections*] (*a*).

42. [*Nothing in this Act shall affect any register of parliamentary voters or burgess roll in force at the commencement of this Act*] (*b*).

43. [*Nothing in this Act shall affect the provisions contained in section seventy-eight of the Reform Act, 1832*] (*c*). Saving for certain registers and burgess rolls.  
Saving for 2 & 3 Will. 4, c. 45, s. 78.

[*The schedule to which this Act refers is superseded by the Registration Order, 1895.*]

(*v*) *Ante*, p. 417.

(*w*) *Ante*, p. 452.

(*x*) *Ante*, p. 425.

(*y*) No rules have as yet been made under this section. As to rule-making authority see the Supreme Court of Judicature Act, 1875 (38 & 39 Vict. c. 77), s. 17; Appellate Jurisdiction Act, 1876 (39 & 40 Vict. c. 59), s. 17; Supreme Court of Judicature Act, 1881 (44 & 45 Vict. c. 68), s. 19.

(*z*) *Ante*, p. 431.

(*a*) Repealed by 45 & 46 Vict. c. 50, s. 5, and Schedule 1, Part I. See now ss. 72 and 241 of that Act.

(*b*) Repealed by Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39).

(*c*) Repealed by Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56), because the 78th section of the Reform Act, 1832, was repealed by 48 & 49 Vict. c. 15, s. 15.

## Section 1.

## ASSESSED RATES ACT, 1879.

(42 VICT. CAP. 10.)

*An Act to amend the Poor Rate Assessment and Collection Act, 1869.*

[23rd May, 1879.]

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: (d)*

Short title and construction, 32 & 33 Vict. c. 41.

Effect of allowance or deduction as regards qualification or franchise.

P. 220.

1. This Act may be cited as the Assessed Rates Act, 1879, and shall be construed as one with the Poor Rate Assessment and Collection Act, 1869, in this Act called the principal Act.

2. Where by way of commission or abatement or deduction under the principal Act, or purporting or assumed to be under the principal Act, an allowance or deduction has, before the passing of this Act, been or shall hereafter be actually made, the same shall, for the purpose of every qualification or franchise depending upon rating or upon payment of rates, be deemed to have been duly made in pursuance of every or any agreement, order, notice, or proceeding necessary for the validity thereof under the principal Act, and to have been and to be an allowance or deduction which the overseers were and are empowered to make from the rate under the principal Act; and no qualification or franchise depending upon rating or upon payment of rates shall be defeated by reason of such allowance or deduction not having been made in pursuance of an agreement in writing, order in writing, or notice in writing, or by reason of the want or insufficiency of any agreement, order, notice, or proceeding necessary for the validity thereof under the principal Act, or by reason of any informality or defect in the making thereof; provided always, that this Act shall not relieve any overseers from any liability which they have incurred or may incur by making an allowance or deduction otherwise than in pursuance of the provisions of the principal Act, or affect any remedy for the recovery of the amount of such allowance or deduction.

## SUPREME COURT OF JUDICATURE ACT, 1881.

(44 &amp; 45 VICT. CAP. 68.)

*An Act to amend the Supreme Court of Judicature Acts; and for other purposes.*

[27th August, 1881.]

*Whereas it is expedient to amend the constitution of Her Majesty's Court of Appeal, and to make further provision concerning the Supreme Court of Judicature and the officers thereof, and such other matters as are hereinafter mentioned: (e)**Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: (e)*

Short title.

1. This Act may be cited as the Supreme Court of Judicature Act, 1881.

\* \* \* \* \*

(d) See the Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56), s. 4.

(e) Repealed by the Statute Law Revision Act, 1894 (57 & 58 Vict. c. 56) and as to the omission of the clause of enactment see s. 4 of the same Act.



14. The jurisdiction of the High Court of Justice to decide questions of law, upon appeal or otherwise, under the Act of the sixth and seventh years of Her Majesty, chapter eighteen, (*f*), the County Voters Registration Act, 1865 (*g*), the Parliamentary Elections Act, 1868, the Corrupt Practices (Municipal Elections) Act, 1872 (*h*), the Parliamentary and Municipal Registration Act, 1878 (*i*), or any of the said Acts, or any Act amending the same respectively, shall henceforth be final and conclusive, unless in any case it shall seem fit to the said High Court to give special leave to appeal therefrom to Her Majesty's Court of Appeal, whose decision in such case shall be final and conclusive.

## Section 14.

Jurisdiction of High Court in registration and election cases.  
28 & 29 Vict. c. 36.  
31 & 32 Vict. c. 123.  
35 & 36 Vict. c. 60.  
41 & 42 Vict. c. 26.  
P. 386.

## MUNICIPAL CORPORATIONS ACT, 1882.

(45 &amp; 46 VICT. CAP. 50.)

*An Act for consolidating, with amendments, enactments relating to Municipal Corporations in England and Wales.* [18th August, 1882.]

WHEREAS divers bodies corporate at sundry times have been constituted in the cities, towns, and boroughs of England and Wales, to the intent that the same might for ever be and remain well and quietly governed :

And whereas the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, "to provide for the regulation of municipal corporations in England and Wales," applies to most of those bodies constituted before the passing of that Act, and to every of those bodies constituted after the passing of that Act ; and that Act having been from time to time much altered and added to by other Acts, it is expedient that all the Acts aforesaid be reduced into one Act with some amendments :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.  
PRELIMINARY.

1. This Act may be cited as the Municipal Corporations Act, 1882.

Short title.

2. This Act is divided into parts, as follows :

Division of Act into parts (*ch.*).

Part

- I.—Preliminary.
- II.—Constitution and government of borough.
- III.—Preparations for and procedure at elections.
- IV.—Corrupt practices and election petitions.*
- V.—Corporate property and liabilities.*
- VI.—Charitable and other trusts and powers.*
- VII.—Borough fund : borough rate : county rate.*
- VIII.—Administration of justice.*
- IX.—Police.*
- X.—Freemen.*
- XI.—Grant of charters.*
- XII.—Legal Proceedings.*
- XIII.—General.

(*f*) Sections 42, *et seq.*, *ante*, p. 417.(*g*) *Ante*, p. 440.(*h*) Repealed by 45 & 46 Vict. c. 50, s. 5, and Schedule 1, and replaced by Part IV. of that Act.(*i*) Section 35, *ante*, p. 493.(*k*) The Parts printed in italics are not included in this Appendix.

**Section 3.**

Extent.  
Commencement.

Repeals.

Application.  
P. 238.

Interpretation  
and construction.

3. This Act shall not extend to Scotland or Ireland.

4. This Act shall commence and have effect from and immediately after the thirty first of December, one thousand eight hundred and eighty-two.

5. The enactments described in the first schedule are hereby repealed, subject to the exceptions and qualifications in this Act mentioned.

6. This Act shall apply to every city and town to which the Municipal Corporations Act, 1835, applies at the commencement of this Act, and to any town, district, or place whereof the inhabitants are incorporated after the commencement of this Act, and whereto the provisions of the Municipal Corporations Acts are under this Act extended by charter, but to no other place.

7.—(1) In this Act—

“Borough” means, unless a contrary intention appears, a city, or town to which this Act applies :

“Municipal corporation” means the body corporate constituted by the incorporation of the inhabitants of a borough :

“Municipal Corporations Act, 1835,” means the recited Act of King William the Fourth, the date of the passing whereof is the ninth of September, one thousand eight hundred and thirty-five :

“Municipal Corporations Acts” means this Act and any Act to be passed amending this Act :

“Burgess” includes citizen :

“Corporate seal” means the common seal of a municipal corporation :

“Corporate office” means the office of mayor, alderman, councillor, elective auditor, or revising assessor :

“Corporate land” means land belonging to or held in trust for a municipal corporation :

“Municipal election” means an election to a corporate office :

“Parliamentary borough” means any borough, city, county of a city, county of a town, place, or combination of places, returning a member to serve in Parliament, and not being a county at large, or a riding, parts, or division of a county at large :

“Parliamentary election” means an election of a member to serve in Parliament :

“Parish” means any place for which a separate poor rate is or can be made : (l)

“Overseers” means overseers of the poor of a parish, township, or place, and includes all persons who execute the duties of overseers :

“County” does not include a county of a city or county of a town, but includes a riding, parts, division or liberty of a county :

“Trustees” means trustees, commissioners, or directors, or the persons charged with the execution of a trust or public duty, however designated :

“Person” includes a body of persons corporate or unincorporate (m) :

“Treasury” means the Commissioners of Her Majesty’s Treasury (n) :

“The Secretary of State” means one of Her Majesty’s principal Secretaries of State (o) :

“High Court” means Her Majesty’s High Court of Justice (o) :

(l) See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 5.

(m) See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 19.

(n) See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 12.

(o) See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13.

“Justice” means one of Her Majesty’s justices of the peace :

## Section 7.

“Borough civil court” means an inferior court of record for the trial of civil actions which by charter, custom, or otherwise, is or ought to be holden in a borough, but does not include a county court :

“Bank of England” means the Governor and Company of the Bank of England (*n*) :

“Schedule” means schedule to this Act, and “part” means part of this Act :

“Writing” includes print, and “written” includes printed (*p*).

(2) Words in this Act referring to a borough, municipal corporation, authority, officer, or office, shall be construed distributively as referring to each borough, corporation, authority, officer, or office to which or to whom the provision is applicable.

(3) Words in this Act referring to a parish shall be construed, unless a contrary intention appears, as referring to every parish situate wholly or in part in a borough.

(4) The schedules shall be read and have effect as if they were part of this Act.

## PART II.

### CONSTITUTION AND GOVERNMENT OF BOROUGH.

#### *Corporate Name.*

#### 8. [*Name of municipal corporation.*]

#### *Burgesses.*

9. (*q*)—(1) A person shall not be deemed a burgess for any purpose of this Act unless he is enrolled as a burgess.

Qualification of  
burgess.

(2) A person shall not be entitled to be enrolled as a burgess unless he is qualified as follows (*r*) :—

P. 240.

(a) Is of full age ; and

(b) Is on the fifteenth of July in any year, and has been during the whole (*s*) of the then last preceding twelve months, in occupation, joint or several, of any house, warehouse, counting-house, shop, or other building (in this Act referred to as qualifying property) in the borough ; and

(c) Has during the whole of those twelve months resided in the borough, or within seven miles thereof ; and

(d) Has been rated in respect of the qualifying property to all poor rates made during those twelve months for the parish wherein the property is situate ; and

(e) Has on before the twentieth of the same July paid all such rates, including borough rates (if any), as have become payable by him in respect of the qualifying property up to the then last preceding fifth of January.

(*p*) See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 20.

(*q*) This section extended, with modifications, to county electors : 51 & 52 Vict. c. 10, s. 2.

(*r*) Or under 51 & 52 Vict. c. 10, s. 3.

(*s*) As to letting furnished house for four months, see 48 & 49 Vict. c. 9, and as to absence for not more than four months in the performance of duty, see 54 & 55 Vict. c. 11.

**Section 9.**

- (3) Every person so qualified shall be entitled to be enrolled as a burgess, unless he—
- (a) Is an alien ; or
  - (b) Has within the twelve months aforesaid received union or parochial relief or other alms ; or
  - (c) Is disqualified under any Act of Parliament.

*Council ; Mayor, Aldermen, and Councillors.*

Constitution of council.

10.—(1) The municipal corporation of a borough shall be capable of acting by the council of the borough, and the council shall exercise all powers vested in the corporation by this Act or otherwise.

(2) The council shall consist of the mayor, aldermen, and councillors.

Qualification of councillor.

11.—(1) The councillors shall be fit persons elected by the burgesses.

(2) A person shall not be qualified to be elected or to be a councillor, unless he—

- (a) Is enrolled and entitled to be enrolled as a burgess ; or
- (b) Being entitled to be so enrolled in all respects except that of residence, is resident beyond seven miles but within fifteen miles of the borough, and is entered in the separate non-resident list directed by this Act to be made ; and
- (c) In either of those cases, is seised or possessed of real or personal property or both, to the value or amount, in the case of a borough having four or more wards, of one thousand pounds, and in the case of any other borough, of five hundred pounds, or is rated to the poor rate in the borough, in the case of a borough having four or more wards, on the annual value of thirty pounds, and in the case of any other borough of fifteen pounds.

(3) Provided, that every person shall be qualified to be elected and to be a councillor, who is, at the time of election, qualified to elect to the office of councillor ; which last-mentioned qualification for being elected shall be alternative for and shall not repeal or take away any other qualification.

(4) But if a person qualified under the last foregoing proviso ceases for six months to reside in the borough, he shall cease to be qualified under that proviso, and his office shall become vacant, unless he was at the time of his election and continues to be qualified in some other manner.

Disqualifications for being councillor.

12.—(1) A person shall be disqualified for being elected and for being a councillor, if and while he—

- (a) is an elective auditor . . . or holds any office or place of profit, other than that of mayor or sheriff, in the gift or disposal of the council ; or
- (b) Is in holy orders, or the regular minister of a dissenting congregation (x) ; or
- (c) Has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council :

(u) This section extended with modifications to county councillors ; 51 & 52 Vict. c. 10, s. 12.

(x) See as to county councillors and aldermen, 51 & 52 Vict. c. 41, s. 2 (2)(a).



(2) But a person shall not be so disqualified, or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in—

## Section 12.

- (a.) Any lease, sale, or purchase of land, or any agreement for the same ; or
- (b.) Any agreement for the loan of money, or any security for the payment of money only ; or
- (c.) Any newspaper in which any advertisement relating to the affairs of the borough or council is inserted ; or
- (d.) Any company which contracts with the council for lighting or supplying with water or insuring against fire any part of the borough ; or
- (e.) Any railway company, or any company incorporated by Act of Parliament or Royal Charter, or under the Companies Act, 25 & 26 Vict. c. 89.

13. [*Term of office and rotation of councillors.*]

- |     |   |   |   |   |   |   |
|-----|---|---|---|---|---|---|
| 14. | * | * | * | * | * | Number, term of office, and rotation of aldermen. |
|-----|---|---|---|---|---|---|

(3) A person shall not be qualified to be elected or to be an alderman unless he is a councillor or qualified to be a councillor (y).

15. [*Qualification, term of office, salary, precedence, and powers of mayor.*]16. [*Power of mayor to appoint deputy.*]*Officers of Council.*

17.—(1) The council shall from time to time appoint a fit person, not a member of the council, to be the town clerk of the borough. The town clerk and deputy.

(2) The town clerk shall hold office during the pleasure of the council. P. 282.

(3) He shall have the charge and custody of, and be responsible for, the charters, deeds, records, and documents of the borough, and they shall be kept as the council direct.

(4) A vacancy in the office shall be filled within twenty-one days after its occurrence.

(5) In case of the illness or absence of the town clerk, the council may appoint a deputy town clerk, to hold office during their pleasure.

(6) All things required or authorized by law to be done by or to the town clerk may be done by or to the deputy town clerk.

18. [*The Treasurer.*]19. [*Other borough officers.*]20. [*Security by and remuneration of officers.*]21. [*Accountability of officers.*]22. [*Meetings and proceedings of council.*]23—24. [*Bye-laws.*]25—28. [*Accounts and audit.*]29. [*Revising assessors.*] (z)*Division of Borough into Wards, or alteration of Wards.*

30.—(1) If two-thirds (a) of the council of a borough agree to petition, and the council thereupon petition, the Queen for the division of the

Proceedings for division of borough into

(y) The rest of this section does not affect registration law.

(z) Superseded by 51 & 52 Vict. c. 10, s. 4, *post*.

(a) See 56 & 57 Vict. c. 9, s. 2, enabling a petition to be presented upon a resolution of the majority of the council. By s. 3 of the same Act, no second

**Section 30.**

—  
wards or altera-  
tion of wards.  
P. 6.

borough into wards, or for the alteration of the number and boundaries of its wards, it shall be lawful for Her Majesty from time to time, by Order in Council, to fix the number of wards into which the borough shall be divided : and the borough shall be divided into that number of wards.

(2) Notice of the petition, and of the time when it pleases Her Majesty to order that the same be taken into consideration by Her Privy Council, shall be published in the *London Gazette* one month at least before the petition is so considered.

(3) When an Order in Council has been so made, the Secretary of State shall appoint a commissioner to prepare a scheme for determining the boundaries of the wards and apportioning the councillors among them.

(4) In case of division into wards, the commissioner shall apportion all the councillors among the wards.

(5) In case of alteration of wards, he shall so apportion among the altered wards the councillors for those wards as to provide for their continuing to represent as large a number as possible of their former constituents.

(6) In either case, each councillor shall hold his office in the ward to which he is assigned for the same time that he would have held it had the borough remained undivided or the wards unaltered.

(7) In case of division into wards the returning officer at the first election for each ward held after the division shall, notwithstanding anything in this Act, be the mayor or a person appointed by the mayor.

(8) If by reason of any division or alteration under this section any doubt arises as to which councillor should go out of office, the doubt may be determined by the council.

(9) The division of a borough into a greater number of wards shall not affect the qualification of aldermen or councillors.

(10) The number of councillors assigned to each ward shall be a number divisible by three ; and in fixing their number the commissioner shall, as far as he deems it practicable, have regard as well to the number of persons rated in the ward as to the aggregate rating of the ward.

(11) The commissioner shall make the scheme in duplicate, and shall deliver one of the duplicates to the town clerk, and shall send the other to the Secretary of State, to be submitted by him to Her Majesty in Council for approval.

(12) The scheme shall be published in the *London Gazette*, and shall come into operation at the date of that publication, and thenceforth the boundaries of wards and apportionment of councillors determined and made by the scheme shall be observed and be in force.

(13) If Her Majesty in Council does not approve the scheme, as originally prepared by the commissioner, it shall nevertheless be published in the *London Gazette*, and shall be in force for the purposes of any municipal election until Her Majesty in Council, on further information and report from the commissioner, definitely approves a scheme in that behalf.

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petition can be presented within seven years after an alteration of boundaries, by order in council under this section as amended

(14) The commissioner may administer oaths, and may require any person having the custody of any book containing a poor rate made for a parish to produce the book for his inspection; and every person required by the commissioner to answer any question put to him for the purposes of this section shall answer it. Section 30.

(15) The commissioner shall have remuneration as appearing by the Fourth and Fifth Schedules.

*Supplemental and Exceptional Provisions.*

31. In and for the purposes of this Act —

Occupation of  
part of house.  
P. 242.

(a.) The terms house, warehouse, counting-house, shop, or other building include any part of a house, where that part is separately occupied for the purposes of any trade, business, or profession; and any such part may, for the purpose of describing the qualification, be described as office, chambers, studio, or by any like term applicable to the case.

(b.) Where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part (b).

32.—(1) If an occupier of any qualifying property, whether the land-lord is or is not liable to be rated to the poor rate in respect thereof, claims to be rated to the poor rate in respect thereof, and pays or tenders to the overseers of the parish where the property is situate the full amount of the poor rate last made in respect of the property, the overseers shall put the occupier's name on the rate book in respect of that rate. Claim by  
occupier to be  
rated.  
P. 247.

(2) If they fail to do so, he shall nevertheless for the purposes of this Act be deemed rated to that rate (c).

33.—(1) Where a person succeeds to qualifying property by descent, marriage, marriage settlement, devise, or promotion to a benefice or office, then, for the purpose of qualification, the occupancy of the property by a predecessor in title, and the rating of the predecessor in respect thereof, shall be equivalent to the occupancy and rating of the successor; and rating in the name of the predecessor shall, until a new rate is made after the date of succession, be equivalent to rating in the name of the successor; and the successor shall not be required to prove his own residence, occupancy, or rating before the succession. Rules as to  
qualification of  
burgess on  
succession, etc.  
Pp. 246, 247.

(2) The qualifying property need not be throughout the twelve months constituting the period of qualification the same property or in the same parish. P. 243.

(3) Where by law a borough rate is payable by instalments, payment by any person of any such instalment shall, as regards his qualification to be enrolled as a burgess, be deemed a payment of the borough rate in respect of the period to which the instalment applies. P. 249.

(b) This section was extended to county electors; 51 & 52 Vict. c. 10, s. 2. Cp. as to parliamentary occupation voters, 41 & 42 Vict. c. 26, s. 5.

(c) This section was impliedly extended to county electors by 51 & 52 Vict. c. 10, s. 2. Cp. as to parliamentary occupation voters, 2 & 3 Will. 4, c. 45, s. 30; 14 & 15 Vict. c. 14; 32 & 33 Vict. c. 41, s. 19; 41 & 42 Vict. c. 26, s. 14.

**Section 33.** (4) A person shall not be disentitled to be enrolled as a burgess by reason only

- P. 273. (a.) That he has received medical or surgical assistance (*d*) from the trustees of the municipal charities, or has been removed, by order of a justice, to a hospital or place for reception of the sick, at the cost of any local authority; or  
(b.) That his child has been admitted to and taught in any public or endowed school (*e*).

**34—41.** [*As to acceptance, resignation, and avoidance of office, etc.*]

Validity of acts done notwithstanding disqualification, etc.

**42.** \* \* \* \* \*  
(3) A burgess roll shall not be liable to be questioned by reason of a defect in the title, or want of title, of the mayor or any revising authority by whom it is revised, if he was then in actual possession and exercise of the office of mayor or revising authority (*f*).

Duties of town clerk, deputy, and treasurer, during vacancy or incapacity.

**43.** If there is no town clerk, and no deputy town clerk, or there is no treasurer, or the town clerk, deputy town clerk, or treasurer (as the case may be) is incapable of acting, all acts by law authorized or required to be done by or with respect to the town clerk or the treasurer (as the case may be) may, subject to the provisions of any other Act, be done by or with respect to a person appointed in that behalf by the mayor.

### PART III.

#### PREPARATIONS FOR AND PROCEDURE AT ELECTIONS.

##### *Parish Burgess Lists ; Burgess Rolls ; Ward Rolls.*

Preparation and revision of parish burgess lists.

41 & 42 Vict. c. 26.

**44.—**(1) Where the whole or part of the area of a borough is co-extensive with or included in the area of a parliamentary borough, the lists of burgesses are to be made out and revised, and claims and objections relating thereto are to be made, in accordance with the provisions of the Parliamentary and Municipal Registration Act, 1878.

(2) Where no part of the area of a borough is co-extensive with or included in the area of a parliamentary borough, the lists of burgesses shall be made out and revised, and claims and objections relating thereto may be made, in accordance, *as nearly as may be, with the provisions of Part I. of the Third Schedule (g).*

(3) In either case the lists shall be styled the parish burgess lists.

The burgess roll and ward rolls.

P. 362.

**45.—**(1) When the parish burgess lists have been revised and signed, the revising authority shall deliver them to the town clerk, and a printed copy thereof, examined by him and signed by him, shall be the burgess roll of the borough.

(2) The burgess roll shall be completed on or before the twentieth of October in each year, and shall come into operation on the first of November in that year, and shall continue in operation for the twelve months beginning on that day.

(*d*) See also 48 & 49 Vict. c. 46, *post*.

(*e*) This section was extended with modifications to county electors by 51 & 52 Vict. c. 10, s. 2, *post*.

(*f*) Sub-sections (1) and (2) of this section have no bearing on the law of registration. How far sub-section remains (3) in force since the abolition of revising assessors is doubtful.

(*g*) See now 51 & 52 Vict. c. 10, s. 4.



(3) The names in the burgess roll shall be numbered by wards or by polling districts, unless in any case the council direct that the same be numbered consecutively without reference to wards or polling districts. Section 45.

(4) Where the borough has no wards, the burgess roll shall be made in one general roll for the whole borough.

(5) Where the borough has wards, the burgess roll shall be made in separate rolls, called ward rolls, one for each ward, containing the names of the persons entitled to vote in that ward, and the ward rolls collectively shall constitute the burgess roll.

(6) A burgess shall not be enrolled in more than one ward roll.

(7) Where a duplicate of a burgess list is made under section thirty-one of the Parliamentary and Municipal Registration Act, 1878 (*h*), it shall have the same effect as the original, and may be delivered instead thereof.

(8) Every person enrolled in the burgess roll shall be deemed to be enrolled as a burgess, and every person not enrolled in the burgess roll shall be deemed to be not enrolled as a burgess.

(9) No stamp duty shall be payable in respect of the enrolment of a burgess (*i*).

46.—(1) If and as far as the council so direct, the parish burgess lists, and the burgess roll, and the ward rolls (if any), and the lists of claimants and respondents (*l*), or any of those documents, shall be arranged in the same order in which the qualifying properties appear in the rate book for the parish in which they are situate, or otherwise in such order as will cause those lists and rolls to record the qualifying properties in successive order in the street or other place in which they are situate. Arrangement of lists and rolls.  
P. 363.

(2) Subject to any such direction, and to the provisions of this Act as to polling districts, the arrangement of the list and rolls shall be alphabetical.

47.—(1) Where the parish burgess lists are revised under the Parliamentary and Municipal Registration Act, 1878 (*k*), the burgess roll is subject to alteration or correction in manner provided by section thirty-five of that Act. Correction of burgess roll.  
P. 385.

(2) (3) [*As to mandamus to mayor to restore names expunged or omitted on a revision under this Act.*]

48.—(1) The town clerk shall cause the parish burgess lists, the lists of claimants and respondents (*l*), and the burgess roll, to be printed, and shall deliver printed copies to any person on payment of a reasonable price for each copy (*m*). Printing and sale of burgess roll and other documents.  
Pp. 284, 362.

(2) Subject to section thirty of the Parliamentary and Municipal Registration Act, 1878 (*n*), the proceeds of sale shall go to the borough fund (*o*).

(*h*) *Ante*, p. 493.

(*i*) This section was applied to the county register and division registers by 51 & 52 Vict. c. 10, s. 7 (2); but see 54 & 55 Vict. c. 68, s. 2, altering the effect of sub-ss. (1) and (2) of the above section.

(*k*) See 51 & 52 Vict. c. 10, s. 4. The remaining sub-sections of this section are now rendered obsolete by the effect of 51 & 52 Vict. c. 10, *post*.

(*l*) *Qy.* persons objected to.

(*m*) For penalty for refusal, see s. 75.

(*n*) *Ante*, p. 492.

(*o*) This section is applied to the county register and other documents by 51 & 52 Vict. c. 10, s. 7 (2).

**Section 49.**

Separate list  
of persons  
qualified to be  
councillors but  
not to be  
burgesses.  
P. 289.

49.—(1) The overseers of each parish shall at the same time that they make the parish burgess list make a list of the persons entitled in respect of the occupation of property in that parish to be elected councillors, as being resident within fifteen miles although beyond seven miles from the borough (*p*).

(2) The provisions of this Act as to the parish burgess lists, and claims and objections relating thereto, and the revision of those lists shall, as nearly as circumstances admit, apply to the lists made under this section.

(3) The town clerk shall arrange the names entered in these lists when revised, in alphabetical order as a separate list (in this Act called the separate non-resident list), with an appropriate heading, at the end of the burgess roll (*q*).

*Elections of Councillors, Aldermen, Mayor, Auditors, etc.*

**50—62.** [*As to the elections above mentioned.*]

*Supplemental and Exceptional Provisions.*

Right of women  
to vote.  
P. 263.

63. For all purposes connected with and having reference to the right to vote at municipal elections words in this Act importing the masculine gender include women (*r*).

Polling districts.

64. The council may divide the borough or any ward into polling districts, and thereupon the overseers shall, as far as practicable, make out the parish burgess lists so as to divide the names in conformity with the polling districts.

Notices as to  
elections.

65. Any notice required to be given in connection with a municipal election may, as to elective auditors, be comprised in one notice, and may, as to ward elections, comprise matter necessary for several wards.

66. [*Time for filling casual vacancies.*]

67. [*Illness, etc., of mayor or returning officer.*]

68. [*Election of councillor in more than one ward.*]

69. [*Elections not to be held in churches.*]

70. [*Omission to hold election, or election void.*]

Burgess roll to  
be in operation  
until revision of  
new burgess  
roll.

71.—(1) If a parish burgess list is not made or revised in due time (*s*), the corresponding part of the burgess roll in operation before the time appointed for the revision shall be the parish burgess list until a burgess list for the parish has been revised and become part of the burgess roll.

(2) If a burgess roll is not made in due time (*t*), the burgess roll in force before the time appointed for the revision shall continue in force until the new burgess roll is made (*u*).

72. [*Non-compliance with Rules.*]

73. [*Election valid unless questioned within twelve months.*]

(*p*) As to measurement of distance, see s. 231.

(*q*) This section is applied with modifications to county councillors; 51 & 52 Vict. c. 10, s. 12.

(*r*) This section applied to county electors by 51 & 52 Vict. c. 10, s. 2.

(*s*) See 51 & 52 Vict. c. 10, s. 6 (1).

(*t*) See s. 45, *ante*, p. 504.

(*u*) This section is applied to the county register and county electors lists by 51 & 52 Vict. c. 10, s. 7 (2).

74. [*Offences in relation to nomination papers.*]

## Section 74.

75.—(1) If [*a mayor or revising assessor neglects or refuses to revise a parish burgess list, or*] (*x*) a mayor or alderman neglects or refuses to conduct or declare an election, as required by this Act, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

Offences in relation to lists and elections.  
Pp. 283, 290.

(2) If—

(a.) An overseer (*y*) neglects or refuses to make, sign, or deliver a parish burgess list, as required by this Act ; or

(b.) A town clerk neglects or refuses to receive, print, and publish a parish burgess list or list of claimants or respondents (*z*), as required by this Act ; or

(c.) An overseer or town clerk refuses to allow any such list to be inspected by a person having a right thereto ;  
he shall for every such neglect or refusal be liable to a fine not exceeding fifty pounds, recoverable by action.

(3) An action under this section shall not lie after three months from the neglect or refusal. A moiety of any fine recovered therein shall, after payment of the costs of action, be paid to the plaintiff.

76. [*Revival of former law on expiration of Ballot Act, 1872.*]

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## PART VII.

## BOROUGH FUND : BOROUGH RATE : COUNTY RATE.

*Borough Fund.*

\* \* \* \* \*

140.—(1) The borough fund shall be applicable to and charged with the several payments specified in the fifth schedule.

Application of borough fund.  
P. 292.

(2) The payments specified in Part I. of that schedule may be made without order of the council ; those specified in Part II. may not be made without such order.

(3) No other payment shall be made out of the borough fund except :—

(a.) Under the authority of an Act of Parliament ; or

(b.) By order of the council ; or

(c.) By order of the court of quarter sessions for the borough ; or

(d.) By order of a justice in pursuance of this Act ; or

(e.) In cases in which the court of quarter sessions for a county or a justice acting in and for a county in the discharge of his judicial duty, might make an order for the payment of money on the treasurer of the county.

(4) Saving, nevertheless, in relation to the application of the borough fund as authorized by this section or otherwise by this Act, all rights, interests, and demands of all persons in or on the real or personal estate of the municipal corporation by virtue of any legal proceeding, or of any mortgage, or otherwise.

141.—(1) An order of the council for payment of money out of the borough fund shall be signed by three members of the council and counter-signed by the town clerk.

Orders for payment of money.

(*x*) These words are rendered obsolete by the effect of 51 & 52 Vict. c. 10, *post*.

(*y*) See s. 238 (1), *post*.

(*z*) See note (*l*), *ante*, p. 505.

**Section 141.** (2) Any such order may be removed into the Queen's Bench Division of the High Court by writ of *certiorari*, and may be wholly or partly disallowed or confirmed on motion and hearing with or without costs according to the judgment and discretion of the court.

Payments to  
and by  
treasurer.

**142.**—(1) All payments to and out of the borough fund shall be made to and by the treasurer.

(2) All payments to the treasurer shall go to the borough fund.

\* \* \* \*

#### *Borough Rate.*

Power for  
council to make  
borough rate  
and assess con-  
tribution  
thereto.

P. 248.

**144.**—(1) If the borough fund is insufficient for the purposes to which it is applicable under this Act or otherwise by law, the council shall from time to time estimate, as correctly as may be, what amount, in addition to the borough fund, will be sufficient for those purposes.

(2) In order to raise that amount, the council shall, subject to the provisions of this Act, from time to time order a rate, called a borough rate, to be made in the borough.

(3) A borough rate may be made retrospectively, in order to raise money for the payment of charges and expenses incurred, or which have come in course of payment, at any time within six months before the making of the rate.

(4) The council shall assess the contributions to the borough rate on the several parishes and parts of parishes in the borough in proportion to the total annual value of the hereditaments in each parish or part which are rateable to the poor, or in respect of which a contribution is made to the poor rate.

(5) That value shall be estimated according to the valuation list (if any) in force for the time being, and if there is none, according to the last poor rate.

(6) But if for any reason the council think that the valuation list or poor rate is not a fair criterion of value they may cause an independent valuation to be made (z).

**145.** [*Collection of borough rate in undivided parish.*]

**146.** [*Collection of borough rate in divided parish.*]

Rating of  
owners instead  
of occupiers for  
borough rate in  
certain cases.  
32 & 33 Vict.c. 11.

**147.** Where the vestry of a parish has made or makes, before or after the commencement of this Act, under section four of the Poor Rate Assessment and Collection Act, 1869 (a), an order, as in that section provided, to the effect that the owners, instead of the occupiers, of such rateable hereditaments, as therein mentioned, shall be rated to the poor rate in respect thereof, every such order, while in force after the commencement of this Act, shall be deemed to apply to and include rating to the borough rate, with the same incidents, conditions, powers, liabilities, and remedies as if the borough rate were a poor rate.

**148.** [*Warrants for levy of borough rate.*]

**149.** [*Borough rate to go to borough fund: and its application.*]

**150—153.** [*County rate.*]

(z) The remainder of this section does not in any way concern the subject of this work.

(a) *Ante*, p. 461.



## PART VIII.

## Section 163.

## ADMINISTRATION OF JUSTICE.

\* \* \* \* \*

*Recorder.*

163.—(6) He shall not during his office, be eligible to serve in The recorder.  
 Parliament for the borough, or be an alderman, councillor, or stipendiary P. 315.  
 magistrate of the borough, but he may be appointed revising *(b)* barrister  
 for the borough, and shall be eligible to serve in Parliament except  
 for the borough.

\* \* \* \* \*

## PART X.

## FREEMEN.

201. In this part the term freeman includes any person of the class Definition of  
 whose rights and interests were reserved by the Municipal Corporations freeman.  
 Act, 1835, under the name either of freemen or of burgesses *(c)*.

202. No person shall be admitted a freeman by gift or by Freedom not by  
 purchase *(d)*. gift or purchase.  
P. 130.

203. The town clerk of every borough for which at the commence- The freemen's  
 ment of this Act there is a Freemen's Roll shall continue to keep a list, roll.  
 called the Freemen's Roll *(e)*. P. 284.

204. Where a person is entitled to be admitted a freeman for the Admission to  
 purposes of this Part in respect of birth, servitude, or marriage, and freedom.  
 claims accordingly, the mayor shall examine into the claim, and on its  
 being established the claimant shall be admitted and enrolled by the  
 town clerk on the Freemen's Roll.

205. [*Reservation of rights of property to freemen and others.*]

206. [*Limit of value and saving as to conditions precedent.*]

207. Nothing in this Act shall strengthen or confirm any claim, Saving for  
 right, or title of any freeman or of any person to the benefit of any right power to  
 in this Part reserved, but the same may in every case be brought in question right.  
 question, impeached, and set aside, as if this Act had not been passed.

208. [*Reservation of beneficial exemptions to freemen and others.*]

209.—(1) Every person who, if the Municipal Corporations Act, 1835, Reservation of  
 had not been passed, would have enjoyed as a freeman, or might parliamentary  
franchise, etc.

*(b)* See 6 & 7 Vict. c. 18, s. 28, *ante*, p. 410.

*(c)* Every person who now is or hereafter may be an inhabitant of any  
 borough, and also every person who has been admitted or who might  
 hereafter have been admitted a freeman or burgess of any borough if this  
 Act had not been passed, or who now is or hereafter may be the wife or  
 widow, or son, or daughter of any freeman or burgess, or who may have  
 espoused or may hereafter espouse the daughter or widow of any freeman  
 or burgess, or who has been or may hereafter be bound an apprentice  
 (5 & 6 Will. 4, c. 76), s. 2.

*(d)* Admission to honorary freedom under the Honorary Freedom of  
 Boroughs Act, 1885 (48 & 49 Vict. c. 29) is expressly precluded by that  
 Act from conferring the right of voting for any such borough in parlia-  
 mentary or other elections.

*(e)* As to inspection, see s. 233 (5), *post*.

**Section 209.** thereafter have acquired, in respect of birth or servitude, as a freeman, the right of voting in a parliamentary election, shall be entitled to enjoy or acquire the right as if that Act or this Act had not been passed.

(2) No stamp duty shall be chargeable on the admission of any person as a freeman in respect of birth or servitude in a parliamentary borough (*f*).

P. 284.

(3) The town clerk shall do all things appertaining by law to the registration of freemen for parliamentary elections.

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## PART XIII.

### GENERAL.

#### *Boundaries.*

Boundaries of boroughs and transfer of parts to counties.

**228.**—(1) Every place at the commencement of this Act included within each borough then existing, and no other place, shall be part of the borough, and in each borough then existing which is a county of itself, shall be part of that county and of no other, as if this Act had not been passed.

(2) Where under the Municipal Corporations Act, 1835, or any Act amending it, any such county or borough does not, at the commencement of this Act, include a place which, before the passing of the Municipal Corporations Act, 1835, was part thereof, that place shall continue to be part of the county wherein it is situate, or with which it has the longest common boundary, as if this Act had not been passed.

(3) But nothing in this Act shall prevent any gaol, house of correction, lunatic asylum, court of justice, or judges' lodging, which at the passing of the Municipal Corporations Act, 1835, was, and at the commencement of this Act, is, taken to be, for any purpose, in any county, from being still, for that purpose, taken to be in that county, as if this Act had not been passed.

(4) Any gaol, court, depôt for arms, and any land thereto belonging, which at the commencement of this Act is parcel of a county, shall continue to be parcel of the county, and under the exclusive jurisdiction of the authorities of the county, as if this Act had not been passed.

(5) Nothing in this Act shall be construed to affect the assessments of the land tax or assessed taxes, as those assessments exist at the commencement of this Act, or to extend or diminish the jurisdiction of any commissioners of those taxes, as such commissioners then exist; but all lands, and all parishes, parts of parishes, and places shall continue to be charged as at the commencement of this Act towards the land tax charged on the county or other district whereof at the commencement of this Act they are part, and to be subject in that behalf to the jurisdiction of the commissioners of the same county or other district, as if this Act had not been passed.

(*f*) On admission by marriage in a parliamentary borough, or by birth, apprenticeship, or marriage in a non-parliamentary borough, a 1*l.* stamp is necessary, under the Stamp Act, 1891 (54 & 55 Vict. c. 39), ss. 18, 19, and Sched. I., and on admission in any other way either in a parliamentary or a non-parliamentary borough a 3*l.* stamp, subject to an exemption in the case of admission to the freedom of the City of London by redemption.

**229.** [*Adjustment between boroughs and counties on change of boundaries.*] **Section 229.**

*Time.*

**230.**—(1) Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at the latest on the last day of the limited time as so computed, unless the last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter week, or a day appointed for public fast, humiliation, or thanksgiving, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

(2) Where by this Act any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

(3) Where by this Act any act or proceeding is directed or allowed to be done or taken within any time not exceeding seven days, the days in this section specified shall not be reckoned in the computation of such time.

*Distance.*

**231.** The distances mentioned in this Act shall be measured in a straight line on a horizontal plane, and may be determined by the map made under the survey commonly known as the Ordnance Survey (g). Measurement of distances.  
P. 132.

*Notices.*

**232.** Any notice or other document required by this Act to be fixed on the town hall shall be fixed in some conspicuous place on or near the outer door of the town hall, or, if there is no town hall, in some conspicuous place in the borough or ward to which the notice or document relates. Notices on town hall.

*Inspection and Copies.*

**233.**—(1) The minutes of proceedings of the council shall be open to the inspection of a burgess on payment of a fee of one shilling, and a burgess may make a copy thereof or take an abstract therefrom. Inspection of documents.

(2) A burgess may make a copy of or take an extract from an order of the council for the payment of money.

(3) The treasurer's accounts shall be open to the inspection of the council, and a member of the council may make a copy thereof or take an extract therefrom.

(4) The abstract of the treasurer's accounts shall be open to the inspection of all the ratepayers of the borough, and copies thereof shall be delivered to a ratepayer on payment of a reasonable price for each copy.

(5) The Freeman's Roll shall be open to public inspection, and the town clerk shall deliver copies thereof to any person on payment of a reasonable price for each copy. P. 281.

**Section 233.** (6) A document directed by this Act to be open to inspection shall be so open at any reasonable time during the ordinary hours of business, and without payment, unless it is otherwise expressed.

(7) If a person having the custody of any document in this section mentioned,—

(a.) Obstructs any person authorized to inspect the same in making such inspection thereof as in this section mentioned ; or

(b.) Refuses to give copies or extracts to any person entitled to obtain the same under this section ;

he shall, on summary conviction, be liable to a fine not exceeding five pounds.

*Fees.*

**234.** [*Tables of fees to be posted.*]

*Seals and Signatures.*

**235.** [*Forgery.*]

*Applications to Treasury.*

**236.** [*Notice of application to and correspondence with Treasury.*]

*Deputy.*

Acts of deputy  
not to be  
invalidated by  
defect in  
appointment.

**237.** No defect in the appointment of a deputy under this Act shall invalidate his acts.

*Overseers.*

Notices to and  
acting of  
overseers.

**238.**—(1) Every matter by the Municipal Corporations Acts directed to be done by overseers may be lawfully done by the major part of them.

P. 286.

(2) Any notice by the Municipal Corporations Acts required to be given to overseers may be delivered to any one of them, or left at his place of abode, or at his office for transacting parochial business.

P. 310.

*Declarations and Oaths.*

**239.** [*Power to administer oaths, etc.*]

*Forms.*

**240.** [*Forms in schedule.*]

*Misnomer or Inaccurate Description.*

Misnomer or  
inaccurate  
description not  
to hinder.

**241.** No misnomer or inaccurate description of any person, body corporate, or place named in any schedule to the Municipal Corporations Act, 1835, or in any roll, list, notice, or voting paper required by this Act, shall hinder the full operation of this Act with respect to that person, body corporate, or place, provided the description of that person, body corporate, or place be such as to be commonly understood (*h*).

*Substitution in former Acts.*

Provision for  
references in  
unrepealed  
enactments to  
5 & 6 Will. 4,  
c. 76, etc.

**242.**—(1) In the several enactments described in Part I. of the Ninth Schedule, a reference to this Act shall be deemed to be substituted for a reference to the Municipal Corporations Act, 1835, and any Act amending it.

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(*h*) Cp. as to parliamentary registration, 6 & 7 Vict. c. 18, s. 101.



(2) In each of the enactments described in Part II. of the Ninth Schedule, there shall be substituted for the respective provision of the Municipal Corporations Act, 1835, in that part mentioned in connexion therewith, such provision of this Act as is also mentioned in connexion therewith. **Section 242.**

(3) Where any Act passed before this Act, and not specified in the First or in the Ninth Schedule, refers to the Municipal Corporations Act, 1835, or any Act amending it, or to boroughs or corporations subject to that Act or any Act amending it, the reference shall be deemed to be to this Act or to the corresponding provision of this Act, or to boroughs or corporations subject to this Act (as the case may require).

(4) All enactments to which this section relates shall, except as in this section provided, continue to operate as if this Act had not been passed.

243. Such of the Acts specified in the First Schedule as will remain in force to any extent after the commencement of this Act may continue to be cited by the short titles in that schedule mentioned. Short titles of Acts partly repeated.

#### *Returning Officers at Parliamentary Elections.*

244. [Mayor of certain boroughs to be returning officer in parliamentary elections.]

#### *Disfranchised Parliamentary Boroughs.*

245. Where a borough has, in pursuance of the Representation of the People Act, 1867, or of any Act passed in the session of the thirty-first and thirty-second years of the reign of Her Majesty, ceased to return a member to serve in Parliament, and the persons entitled to vote for the member or members formerly returned by the borough were by law electors for any other purpose, the burgesses of the borough shall be electors for that purpose, and shall in all respects, as regards that purpose, be substituted for the persons so entitled to vote. Electors in disfranchised boroughs. 30 & 31 Vict. c. 102.

#### *Licensing.*

246. [Explanation of terms in Licensing Act, 1824.]

#### *Freedom of Trading.*

247. [Right of free trading in boroughs.]

#### *Cinque Ports.*

248. [Special provisions as to certain of the cinque ports.]

#### *Cambridge.*

249. [Vice-Chancellor of Cambridge.]

#### *Savings.*

250.—(1) Nothing in this Act shall prejudicially affect any charter granted before the commencement of this Act, or take away, abridge, or prejudicially affect any of the rights, powers, privileges, estates, property, duties, liabilities, or obligations vested in or imposed on any municipal corporation existing at the commencement of this Act, or in or on the mayor, or the council of a borough then existing, or any members or committee of the council, by the incorporation of the Saving for existing corporations.

**Section 250.** inhabitants of the borough, or by transfer from any other authority, or otherwise ; but every such charter shall continue to operate, and every such corporation shall continue to have perpetual succession and a common seal, and to be capable in law by the council to do and suffer all acts which at the commencement of this Act they and their successors respectively may lawfully do or suffer, and the corporation and all members and officers thereof and their sureties, and every such mayor, and every such council and committee, and every such officer, shall continue to have, enjoy, and be subject to the like rights, powers, offices, privileges, estates, property, duties, liabilities, and obligations, as if this Act had not been passed, without prejudice, nevertheless, to the operation of the repeal of enactments by this Act, and to the other express provisions of this Act.

(2) Nothing in this Act shall alter the boundaries of any borough existing at the commencement of this Act, or the number, apportionment, or qualification of the aldermen or councillors thereof, or the division thereof into wards (i).

Saving for  
local Acts.

**251.** Nothing in this Act shall alter the effect of any local Act of Parliament.

**252.** [*Saving for Prison Acts.*]

**253.** [*Saving for military and naval officers, etc.*]

**254.** [*Saving for dockyards, barracks, etc.*]

**255.** [*Saving as to Admiralty.*]

**256.** [*Saving for Lord Warden.*]

Saving for  
universities.

**257.** Nothing in this Act shall—

- (1) Affect the rights, privileges, duties, or liabilities of the chancellor, masters, and scholars of the Universities of Oxford and Cambridge respectively, as by law possessed under the respective charters of those universities or otherwise ; or
- (2) Entitle the mayors of Oxford and Cambridge respectively to any precedence over the vice-chancellors of those universities respectively ; or
- (3) Entitle any person to be enrolled a citizen of the city of Oxford or burgess of the borough of Cambridge by reason of his occupation of any rooms, chambers, or premises in any college or hall of either of those universities ; or
- (4) Compel any resident member of either of those universities to accept any office in or under the municipal corporation of Oxford or of Cambridge ; or
- (5) Authorize the levy of any rate within the precincts of those universities, or of any of the colleges or halls thereof, which now by law cannot be levied therein, or make either of those universities, or the members thereof, liable to any rate to which they are not liable to contribute at the commencement of this Act ; or

P. 195.

(7) The remainder of this section has no bearing upon the subject of this work.

- (6) Authorize the transfer of any rights or liabilities by a local authority to the municipal corporation of the borough of Cambridge without the consent of the chancellor, master, and scholars of the University of Cambridge ; or
- (7) Affect the rights or privileges granted by charter or Act of Parliament to the University of Durham.

Section 257.

Saving as to  
repeated  
enactments.258. [*Saving for jurisdiction over cathedral precincts.*]259. [*Saving for royal prerogative.*]

260.—(1) The repeal effected by this Act shall not affect—

- (a.) Anything done or suffered before the commencement of this Act under any enactment repealed by this Act ; or,
- (b.) Any proceeding or thing pending or in course of being done at the commencement of this Act under any enactment repealed by this Act ; or
- (c.) Any jurisdiction or practice established, confirmed, or transferred, or right or privilege acquired or confirmed, or duty or liability imposed or incurred, or compensation secured, by or under any enactment repealed by this Act ; or
- (d.) Any disability or disqualification existing at the commencement of this Act under any enactment repealed by this Act ; or
- (e.) Any fine, forfeiture, punishment, or other consequence incurred or to be incurred in respect of any offence committed before the commencement of this Act against any enactment repealed by this Act ; or
- (f.) The institution or the prosecution to its termination of any legal proceeding or other remedy for ascertaining, enforcing, or recovering any such jurisdiction, practice, right, privilege, duty, liability, compensation, disability, disqualification, fine, forfeiture, punishment, or consequence as aforesaid ; or
- (g.) The terms on which any money has been borrowed before the commencement of this Act under any enactment repealed by this Act.

(2) The repeal effected by this Act shall not extend to Scotland or Ireland, and shall not, as regards the enactments described in Part II. of the First Schedule, operate in respect of any place other than a borough to which this Act applies, and shall not revive or restore any statute, law, usage, custom, royal or other charter, grant, letters patent, bye-law, jurisdiction, office, right, title, claim, privilege, liability, disqualification, exemption, restriction, practice, procedure, or other matter or thing abolished by the Municipal Corporations Act, 1835, or not in force or existing at the commencement of this Act, or otherwise affect the past operation of any enactment repealed by this Act.

(3) All elections, declarations, appointments, bye-laws, rates, tables of fees, and regulations made, or pending, or in the course of being made, and all other things done, or pending, or in the course of being done, under the Municipal Corporations Act, 1835, or any other enactment repealed by this Act, before or at the commencement of this Act, shall for the purposes of this Act be of the like effect as if they had been made or done, or were pending, or in the course of being made or done under this Act, and shall, as far as may be requisite for the continuance, validity, and effect thereof, be deemed to have been made or done, or may be carried on and be made or done, as the case may require, under this Act.

## Schedule 1.

## SCHEDULES.

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

## PART I.

*Enactments Repealed Generally.*

5 & 6 Will. 4, c. 76	The Municipal Corporations Act, 1835.
6 & 7 Will. 4, c. 77 in part.	An Act for carrying into effect the reports of the Commissioners appointed to consider the state of the Established Church in England and Wales, with reference to ecclesiastical duties and revenues, so far as they relate to episcopal dioceses, revenues, and patronage ; in part, namely,— section twenty-six.
6 & 7 Will. 4, c. 103 in part.	The Municipal Corporation (Boundaries) Act, 1836 ; except section six (Berwick).
6 & 7 Will. 4, c. 104	The Municipal Corporation (Borough Fund) Act, 1836.
6 & 7 Will. 4, c. 105	The Municipal Corporation (Justices, etc.) Act, 1836.
7 Will. 4, & 1 Vict. c. 78.	The Municipal Corporation (General) Act, 1837.
7 Will. 4, & 1 Vict. c. 81.	The Municipal Corporation (Watch Rate) Act, 1837.
1 & 2 Vict. c. 31 -	The Municipal Corporation (Benefices) Act, 1838.
1 & 2 Vict. c. 35 -	An Act to repeal the stamp duty now paid on admission to the freedom of corporations in England.
2 & 3 Vict. c. 27 -	The Municipal Corporation (Borough Courts) Act, 1839.
2 & 3 Vict. c. 28 -	The Municipal Corporation (Watch Rate) Act, 1839.
3 & 4 Vict. c. 28 -	The Municipal Corporation (Watch Rate) Act, 1840.
4 & 5 Vict. c. 48 -	An Act to render certain municipal corporations rateable to the relief of the poor in certain cases.
6 & 7 Vict. c. 89 -	The Municipal Corporation Act, 1843.
8 & 9 Vict. c. 110 -	The Municipal Corporation (Rates) Act, 1845.
11 & 12 Vict. c. 93	An Act to confirm the incorporation of certain boroughs.
12 & 13 Vict. c. 65	An Act to provide a more convenient mode of levying and collecting county rates, county police rates, and district police rates, in parishes situated partly within and partly without the limits of boroughs which are not liable to such rates.
12 & 13 Vict. c. 82 in part.	An Act to relieve boroughs in certain cases from contribution to certain descriptions of county expenditure ; in part, namely, section one.
13 & 14 Vict. c. 42	The Municipal Corporation (Incorporation) Act, 1850.
13 & 14 Vict. c. 64	The Municipal Corporation (Bridges) Act, 1850.
13 & 14 Vict. c. 91 in part.	The Municipal Corporation (Justices) Act, 1850 ; in part, namely,— section nine.



*Enactments repealed generally—continued.***Schedule 1.**

13 & 14 Vict. c. 101 in part.	An Act to continue two Acts passed in the twelfth and thirteenth years of the reign of Her Majesty, for charging the maintenance of certain poor persons in unions in England and Wales upon the common fund; and to make certain amendments in the laws for the relief of the poor; in part, namely,— section ten.
15 & 16 Vict. c. 81 in part.	An Act to consolidate and amend the statutes relating to the assessment and collection of county rates in England and Wales; in part, namely,— section thirty-eight.
16 & 17 Vict. c. 79	The Municipal Corporation Act, 1853.
16 & 17 Vict. c. 137	The Charitable Trusts Act, 1853; in part, namely,— section sixty-five.
20 & 21 Vict. c. 50	The Municipal Corporation Act, 1857.
21 & 22 Vict. c. 43	An Act to amend the municipal franchise in certain cases.
22 Vict. c. 35	The Municipal Corporation Act, 1859.
22 & 23 Vict. c. 32 in part.	An Act to amend the law concerning the police in counties and boroughs in England and Wales; in part, namely,— sections five and six.
24 & 25 Vict. c. 75	The Municipal Corporations Acts Amendment Act, 1861.
31 & 32 Vict. c. 41	The Borough Electors Act, 1868.
32 & 33 Vict. c. 23	The Municipal Corporation (Recorders) Act, 1869.
32 & 33 Vict. c. 55	The Municipal Corporation (Election) Act, 1869.
32 & 33 Vict. c. 62 in part.	The Debtors Act, 1869; in part, namely,— section twenty-one.
34 & 35 Vict. c. 67	The Municipal Corporations Act, 1859, Amendment Act.
35 & 36 Vict. c. 33 in part.	The Ballot Act, 1872; in part, namely,— sections twenty and twenty-one.
35 & 36 Vict. c. 60	The Corrupt Practices (Municipal Elections) Act, 1872.
36 & 37 Vict. c. 33	The Municipal Corporations Evidence Act, 1873.
37 & 38 Vict. c. 59	The Working Men's Dwellings Act, 1874.
38 & 39 Vict. c. 40	The Municipal Elections Act, 1875.
39 & 40 Vict. c. 61 in part.	The Divided Parishes and Poor Law Amendment Act, 1876; in part, namely,— section thirty.
40 & 41 Vict. c. 69	The Municipal Corporations (New Charters) Act, 1877.
41 & 42 Vict. c. 26 in part.	The Parliamentary and Municipal Registration Act, 1878. in part, namely,— sections twenty, thirty-four, and forty-one.

## Schedule 1.

## PART II.

*Enactments Repealed only as to Boroughs within this Act.*

3 Edw. 1, c. 6 in part.	-	The Statutes of Westminster, the first. Amerciaments shall be reasonable ; in part, namely,— as far as it relates to a city, borough, or town.
3 Edw. 1, c. 31 in part.	-	The Statutes of Westminster, the first. Excessive toll in market town. Murage ; in part, namely,— from "Touching citizens" to "the King," inclusive.
15 Rich. 2, c. 5 in part.	-	St. 7 Edw. I. de Religiosis. Converting land to a churchyard declared to be within that statute. Mortmain, where any is seised of lands to the use of spiritual persons. Mortmain to purchase lands to gilds, fraternities, offices, commonalties ; or to their use ; in part, namely,— as far as it relates to mayors, bailiffs, and commons of cities, boroughs, and other towns which have a perpetual commonalty.
2 & 3 Phil. & Mary, c. 18.	-	An Act touching commissions of the peace and gaol delivery in towns corporate not being counties in themselves.
7 Jas. 1, c. 5 in part.	-	An Acte for ease in pleading against troublesome and contencious suites presented against justices of the peace, maiors, constables, and certain other His Majesties officers for the lawful execution of their office ; in part, namely,— as far as it relates to mayors of cities or towns corporate.
21 Jas. 1, c. 12 in part.	-	An Acte for ease in pleading against troublesome and contencious suites ; in part, namely,— section three, as far as it relates to mayors of cities or towns corporate.
11 Geo. 1, c. 4	-	An Act for preventing the inconvenience arising from want of elections of mayors or other chief magistrates of boroughs or corporations being made upon days appointed by charter or usage for that purpose, and directing in what manner such elections shall be afterwards made.
12 Geo. 3, c. 21	-	An Act for giving relief in proceedings upon writs of mandamus for the admission of freemen into corporations and for other purposes therein mentioned.
32 Geo. 3, c. 58	-	An Act for the amendment of the law in proceedings upon information in nature of <i>quo warranto</i> .
55 Geo. 3, c. 51	-	An Act to amend an Act of His late Majesty King George the Second, for the more easy assessing, collecting, and levying of county rates.
57 Geo. 3, c. 91	-	An Act to enable justices of the peace to settle the fees to be taken by clerks of the peace of the respective counties and other divisions of England and Wales.
2 & 3 Will. 4, c. 69	-	An Act to prevent the application of corporate property to the purposes of election of members to serve in Parliament.

*Enactments Repealed only as to Boroughs within this Act--continued.***Schedule 1.**

3 & 4 Will. 4, c. 31	An Act to enable the election of officers of corporations and other public companies now required to be held on the Lord's Day to be held on the Saturday next preceding or on the Monday next ensuing.
4 & 5 Will. 4, c. 27	An Act for the better administration of justice in certain boroughs and franchises.
7 Will. 4, & 1 Vict. c. 19	An Act to empower the recorder or other person presiding at quarter sessions in corporate cities and towns, and justices of the peace for counties, ridings, or divisions, to divide their respective courts in certain cases.
5 & 6 Vict. c. 104-	The Municipal Corporation Act, 1842.
15 & 16 Vict. c. 5-	The Municipal Corporation Act, 1852.
23 & 24 Vict. c. 16	The Municipal Corporation (Mortgages, etc.) Act, 1860.
23 & 24 Vict. c. 51 in part.	The Local Taxation Returns Act, 1860 ; in part, namely,— so far as it relates to the receipts and expenditure of a municipal corporation.
23 & 24 Vict. c. 106 in part.	The Lands Clauses Consolidation Acts Amendment Act, 1860 ; in part, namely,— section six.
38 & 39 Vict. c. 89 in part.	The Public Works Loans Act, 1875 ; in part, namely,— in section forty, the second paragraph (beginning "The council" and ending "this Act"), and the words "and the council respectively" in the last paragraph.
39 & 40 Vict. c. 20 in part.	The Statute Law Revision Act (Substituted Enactments Act), 1876 ; in part, namely,— section three.
40 & 41 Vict. c. 17	An Act to amend the law relating to the division of courts of quarter sessions in boroughs.
40 & 41 Vict. c. 66 in part.	The Local Taxation Returns Act, 1877 ; in part, namely,— so far as it relates to the receipts and expenditure of a municipal corporation.
42 & 43 Vict. c. 30 in part.	The Sale of Food and Drugs Act Amendment Act, 1879 ; in part, namely,— section eight.
43 Vict. c. 17	The Town Councils and Local Boards Act, 1880.

**THE FIFTH SCHEDULE.****PAYMENT OUT OF THE BOROUGH FUND.****PART I.***Payments which may be made without Order.*

\* \* \* \*

**PART II.***Payments which may not be made without Order.*

1. The expenses incurred by overseers, and by the town clerk and other municipal authorities in relation to the enrolment of burgesses

13 & 14 Vict.  
c. 42, s. 3.

**Schedule 5.** and the holding of municipal elections, or so much of those expenses as is not otherwise provided for under section thirty of the Parliamentary and Municipal Registration Act, 1878 (*h*).

41 & 42 Vict.  
c. 26.

\* \* \* \* \*

## THE NINTH SCHEDULE.

ENACTMENTS IN WHICH A REFERENCE TO THIS ACT IS TO BE  
SUBSTITUTED.

### PART I.

#### *General References.*

30 & 31 Vict. c. 102, the Representation of the People Act, 1867.

31 & 32 Vict. c. 58, the Parliamentary Electors Registration Act, 1868.

### PART II.

#### *Particular References.*

MUNICIPAL CORPORATIONS ACT, 1883 (46 & 47 VICT. CAP. 18).

*An Act to make provisions respecting certain Municipal Corporations and  
other local authorities not subject to the Municipal Corporations Act.*  
[29th June, 1883.]

\* \* \* \* \*

Short title.

1. This Act may be cited as the Municipal Corporations Act, 1883.

\* \* \* \* \*

Future abolition  
of corporations  
except as pro-  
vided by new  
charter or by  
scheme under  
49 & 51 Vict.  
c. 69.

3. On and after the twenty-fifth day of March, one thousand eight hundred and eighty-six, or such later day, not after the twenty-ninth day of September, one thousand eight hundred and eighty-six, as Her Majesty in Council may in the case of any place or places appoint, the following provisions shall (subject to the savings for vested interests and other provisions contained in this Act) apply to each of the places mentioned in the schedule to this Act to which Her Majesty may not be pleased before the said day to grant a new charter; that is to say,

(a.) The place shall not be a corporate town or borough, and any municipal or other corporation thereof existing under any charter or grant or prescription shall be dissolved (*b*).

Saving for new  
charters, etc.

4.—(1) Nothing in this Act shall prevent the application to any place of any charter applying the Municipal Corporation Acts which Her Majesty may be pleased to grant, or affect anything done in pursuance of those Acts or any scheme thereunder, and shall not affect the operation of any such charter, thing, or scheme; save that nothing in the said Acts or scheme shall authorize the establishment or continuance of any court for the trial of civil actions (*m*).

\* \* \* \* \*

Power to Privy  
Council to  
preserve certain

6.—(1) The Privy Council, upon being satisfied by any applicant after inquiry that it is expedient for the public so to do, may, by order,

(*k*) *Ante*, p. 492.

(*l*) The remainder of this section relates only to the application of the property of the dissolved corporations.

(*m*) The remainder of this section relates only to charities.



provide for retaining any court leet or other court or any officer, whether as returning officer for the return of members to serve in Parliament, or as town clerk, for the purpose of the registration of parliamentary voters, or otherwise, and for the appointment of any officer so retained, subject in every case to such exceptions, restrictions, and modifications as seem expedient. Section 6.  
—  
courts and officers.

(2) Subject to the provisions of any order of the Privy Council any person who at the passing of this Act holds an office by virtue of which he is such returning officer or town clerk as aforesaid, may, during the time limited for the tenure of his office, continue to perform the duties of such returning officer or town clerk as aforesaid, and on the expiration of such time, or his otherwise ceasing to perform the duties, the said duties shall, so far as regards the returning officer, be performed in manner provided by the Act of the Session of the seventeenth and eighteenth years of the reign of Her present Majesty, chapter fifty-seven, intituled "An Act to amend the law relating to the appointment of returning officers in certain cases," and so far as regards the town clerk shall be performed by the person in the parliamentary borough who is town clerk within the meaning of section one hundred and one of the Parliamentary Registration Act, 1843 (*n*).

\* \* \* \* \*

16.—(1) Nothing in this Act shall affect the right enjoyed by any person at the passing of this Act to vote for any member or members to serve in Parliament (*o*). Saving for rights of voting and acts done.

\* \* \* \* \*

26.—(1) So much of any Act, law, charter or usage as is inconsistent with this Act is hereby repealed. Repeal.

27. In this Act, unless the context otherwise requires—  
The expression "Privy Council" means the Lords of Her Majesty's Most Honourable Privy Council or any two of them. Definitions.

\* \* \* \* \*

The expression "Municipal Corporation Acts" has the same meaning as in the Municipal Corporations Act, 1882. 45 & 46 Vict. c. 50.

## CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1883 (46 & 47 VICT. CAP. 51).

*An Act for the better Prevention of Corrupt and Illegal Practices at  
Parliamentary Elections.* [25th August, 1883.]

\* \* \* \* \*

6.—(3) A person who is convicted on indictment of any corrupt practice shall (in addition to any punishment as above provided) be not capable, during a period of seven years from the date of his conviction :  
(a.) of being registered as an elector or voting at any election in the United Kingdom, whether it be a parliamentary election or an election for any public office within the meaning of this Act. Conviction of corrupt practice disqualifies for seven years.  
P. 270.

\* \* \* \* \*

(*n*) 6 & 7 Vict. c. 18. s. 101, *ante*, p. 431.

(*o*) The remainder of this section relates only to jurisdiction.

**Section 10.** 10. A person guilty of an illegal practice, whether under the foregoing sections or under the provisions hereinafter contained in this Act, shall, on summary conviction, be liable to a fine not exceeding one hundred pounds, and be incapable, during a period of five years from the date of his conviction, of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this Act) held for or within the county or borough in which the illegal practice has been committed.

Conviction of illegal practice disqualifies for five years.

P. 271.

### MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1884.

(47 & 48 VICT. CAP. 70.)

*An Act for the better Prevention of Corrupt and Illegal Practices at Municipal and other Elections.* [14th August, 1884.]

\* \* \* \* \*

Conviction of corrupt practice at municipal election a disqualification for seven years.

P. 270.

2.—(2) A person who commits any corrupt practice in reference to a municipal election shall be guilty of the like offence, and shall, on conviction, be liable to the like punishment, and subject to the like incapacities, as if the corrupt practice had been committed in reference to a parliamentary election.

\* \* \* \* \*

Conviction of illegal practice at municipal election a disqualification for five years.

P. 271.

7. A person guilty of an illegal practice in reference to a municipal election shall, on summary conviction, be liable to a fine not exceeding one hundred pounds, and be incapable, during a period of five years from the date of his conviction, of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this Act) held for or within the borough in which the illegal practice has been committed.

### REPRESENTATION OF THE PEOPLE ACT, 1884.

(48 & 49 VICT. CAP. 3).

*An Act to amend the Law relating to the Representation of the People of the United Kingdom.* [6th December, 1884.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

#### *Preliminary.*

Short title of Act.

1. This Act may be cited as the Representation of the People Act, 1884.

#### *Extension of the Household and Lodger Franchise.*

Uniform household and lodger franchise.

P. 111.

2. A uniform household franchise and a uniform lodger franchise at elections shall be established in all counties and boroughs throughout the United Kingdom, and every man possessed of a household qualification (*p*) or a lodger qualification (*q*) shall, if the qualifying premises be

(*p*) See 30 & 31 Vict. c. 102, s. 3, *ante*, p. 447.

(*q*) See 30 & 31 Vict. c. 102, s. 4, *ante*, p. 447.

situate in a county in England, be entitled to be registered as a voter, and when registered to vote at an election for such county (*r*). **Section 2.**

3. Where a man himself inhabits any dwelling-house by virtue of any office, service or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service or employment, he shall be deemed for the purposes of this Act and of the Representation of the People Acts to be an inhabitant occupier of such dwelling-house as a tenant.

Tenure of house by office or service not to invalidate vote. P. 207.

*Prohibition of Multiplication of Votes.*

4. Subject to the saving in this Act for existing voters (*s*), the following provisions shall have effect with reference to elections :

Restriction on jagot votes. P. 25.

(1) A man shall not be entitled to be registered as a voter in respect of the ownership of any rent-charge except the owner of the whole of the tithe rent-charge of a rectory, vicarage, chapelry, or benefice to which an apportionment of tithe rent-charge shall have been made in respect of any portion of tithes.

(2) Where two or more men are owners either as joint tenants or as tenants in common of an estate in any land or tenement, one of such men, but not more than one, shall, if his interest is sufficient to confer on him a qualification as a voter in respect of the ownership of such estate, be entitled (in the like cases and subject to the like conditions as if he were the sole owner) be registered as a voter, and when registered to vote at an election.

Pp. 53, 158.

Provided that where such owners have derived their interest by descent, succession, marriage, marriage settlement, or will, or where they occupy the land or tenement, and are *bond fide* engaged as partners carrying on trade or business thereon, each of such owners whose interest is sufficient to confer on him a qualification as a voter shall be entitled (in the like cases and subject to the like conditions as if he were sole owner) to be registered as a voter in respect of such ownership, and when registered to vote at an election, and the value of the interest of each such owner where not otherwise legally defined shall be ascertained by the division of the total value of the land or tenement equally among the whole of such owners.

*Assimilation of Occupation Qualification.*

5. Every man occupying any land or tenement in a county or borough in the United Kingdom of a clear yearly value of not less than ten pounds shall be entitled to be registered as a voter and when registered to vote at an election for such county or borough in respect of such occupation subject to the like conditions respectively as a man is, at the passing of this Act, entitled to be registered as a voter and to vote at an election for such county in respect of the county occupation franchise (*t*), and at an election for such borough in respect of the borough occupation franchise (*u*).

Assimilation of occupation qualification. Pp. 104, 136.

(*r*) Words relating to Scotland and Ireland only have been omitted from this section.

(*s*) See s. 10, *post*.

(*t*) See 30 & 31 Vict. c. 102, s. 6, *ante*, p. 448, and 54 & 55 Vict. c. 11, *post*.

(*u*) See 2 & 3 Will. 4, c. 45, s. 27, *ante*, p. 392, and 54 & 55 Vict. c. 11, *post*.

## Section 6.

Voter not to  
 vote for county  
 in respect of  
 occupation of  
 property in  
 borough.

Pp. 197, 112.

Definition of  
 household and  
 lodger qualifica-  
 tion and other  
 franchises, and  
 application of  
 enactments  
 relating thereto.

30 & 31 Vict.  
 c. 102, s. 4.

30 & 31 Vict.  
 c. 102, s. 6.

2 & 3 Will. 4,  
 c. 45, s. 27.

Definition of  
 "Representa-  
 tion of the  
 People Acts"  
 and "Registra-  
 tion Acts."

## Supplemental Provisions.

6. A man shall not by virtue of this Act be entitled to be registered as a voter or to vote at any election for a county in respect of the occupation of any dwelling-house, lodgings, land, or tenement, situate in a borough (x).

7.—(1) In this Act the expression "a household qualification" means, as respects England, . . . the qualification enacted by the third section of the Representation of the People Act, 1867, and the enactments amending or affecting the same, and the said section and enactments, so far as they are consistent with this Act, shall extend to counties in England . . .

\* \* \* \* \*  
 (3) The expression "a lodger qualification" means the qualification enacted, as respects England, by the fourth section of the Representation of the People Act, 1867, and the enactments amending or affecting the same . . . and the said section of the English Act of 1867, and the enactments amending or affecting the same, shall, so far as they are consistent with this Act, extend to counties in England . . .

\* \* \* \* \*  
 (6) The expression "county occupation franchise means," as respects England, the franchise enacted by the sixth section of the Representation of the People Act, 1867 . . .

(7) The expression "borough occupation franchise" means, as respects England, the franchise enacted by the twenty-seventh section of the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five . . .

(8) Any enactments amending or relating to the county occupation franchise or borough occupation franchise other than the sections in this Act in that behalf mentioned shall be deemed to be referred to in the definition of the county occupation franchise and the borough occupation franchise in this Act mentioned (y).

8.—(1) In this Act the expression "the Representation of the People Acts" means the enactments for the time being in force in England . . . relating to the representation of the people, inclusive of the Registration Acts as defined by this Act.

(2) The expression "the Registration Acts" means the enactments for the time being in force in England . . . relating to the registration of persons entitled to vote at elections for counties and boroughs, inclusive of the Rating Acts as defined by this Act.

(3) The expressions "the Representation of the People Acts" and "the Registration Acts" respectively, where used in this Act, shall be read distributively in reference to the three parts of the United Kingdom as meaning in the case of each part the enactments for the time being in force in that part.

(4) All enactments of the Registration Acts which relate to the registration of persons entitled to vote in boroughs in England in respect of a household or a lodger qualification . . . shall, with the necessary variations and with the necessary alterations of precepts, notices, lists, and other forms, extend to counties as well as to boroughs.

\* \* \* \* \*

(x) Cp. 2 & 3 Will. 4, c. 45, s. 24, *ante*, p. 391.

(y) Words and sub-section relating to Scotland or Ireland only have been omitted from this and the two following sections.



9.—(1) In this Act the expression “the Rating Acts” means the enactments for the time being in force in England . . . relating to the placing of the names of occupiers on the rate book, or other enactments relating to rating in so far as they are auxiliary to or deal with the registration of persons entitled to vote at elections; and the expression “the Rating Acts” where used in this Act shall be read distributively in reference to the three parts of the United Kingdom as meaning in the case of each part the Acts for the time being in force in that part.

## Section 9.

—  
Definition and  
application of  
Rating Acts.

(2) In every part of the United Kingdom it shall be the duty of the overseers annually, in the months of April and May, or one of them, to inquire or ascertain with respect to every hereditament which comprises any dwelling-house or dwelling-houses within the meaning of the Representation of the People Acts, whether any man, other than the owner or other person rated or liable to be rated in respect of such hereditament, is entitled to be registered as a voter in respect of his being an inhabitant occupier of any such dwelling-house, and to enter in the rate book the name of every man so entitled, and the situation or description of the dwelling-house in respect of which he is entitled, and for the purposes of such entry a separate column shall be added to the rate book. P. 288.

(3) For the purpose of the execution of such duty, the overseers may serve on the person who is the occupier or rated or liable to be rated in respect of such hereditament, or on some agent of such person concerned in the management of such hereditament, the requisition specified in the third schedule to this Act (z) requiring that the form in that notice be accurately filled up and returned to the overseers within twenty-one days after such service; and if any such person or agent on whom such requisition is served fails to comply therewith, he shall be liable on summary conviction to a fine not exceeding forty shillings, and any overseer who fails to perform his duty under this section shall be deemed guilty of a breach of duty in the execution of the Registration Acts, and shall be liable to be fined accordingly a sum not exceeding forty shillings for each default. P. 288.

(4) The notice under this section may be served in manner provided by the Representation of the People Acts with respect to the service on occupiers of notice of non-payment of rates (a), and, where a body of persons, corporate or unincorporate, is rated, shall be served on the secretary or agent of such body of persons; and where the hereditament by reason of belonging to the Crown or otherwise is not rated, shall be served on the chief local officer having the superintendence or control of such hereditament. P. 320.

\* \* \* \* \*

(8) In England where a man inhabits any dwelling-house by virtue of any office, service, or employment, and is deemed for the purposes of this Act and of the Representation of the People Acts to be an inhabitant occupier of such dwelling-house as a tenant, and another person is rated or liable to be rated for such dwelling-house, the rating of such other person shall for the purposes of this Act and of the

(z) Superseded by the form prescribed by the Registration Order, 1895, Second and Third Schedules, Forms (A.).

(a) See 30 & 31 Vict. c. 102, s. 28, *ante*, p. 450. The method of service there prescribed must be strictly followed, *Palmer v. Balrothery Union*, [1895] 2 I. R. 586.

**Section 9.** Representation of the People Acts be deemed to be that of the inhabitant occupier; and the several enactments of the Poor Rate Assessment and Collection Act, 1869, and other Acts amending the same referred to in the first schedule to this Act shall for those purposes apply to such inhabitant occupier, and in the construction of those enactments the word "owner" shall be deemed to include a person actually rated or liable to be rated as aforesaid.

(9) In any part of the United Kingdom where a man inhabits a dwelling-house in respect of which no person is rated by reason of such dwelling-house belonging to or being occupied on behalf of the Crown, or by reason of any other ground of exemption, such person shall not be disentitled to be registered as a voter, and to vote by reason only that no one is rated in respect of such dwelling-house, and that no rates are paid in respect of the same, and it shall be the duty of the persons making out the rate book or valuation roll to enter any such dwelling-house as last aforesaid in the rate book or valuation roll, together with the name of the inhabitant occupier thereof.

Saving.

**10.** Nothing in this Act shall deprive any person (who at the date of the passing of this Act is registered in respect of any qualification to vote for any county or borough), of his right to be from time to time registered and to vote for such county or borough in respect of such qualification in like manner as if this Act had not passed.

Provided that where a man is so registered in respect of the county or borough occupation franchise by virtue of a qualification which also qualifies him for the franchise under this Act, he shall be entitled to be registered in respect of such latter franchise only.

Nothing in this Act shall confer on any man who is subject to any legal incapacity to be registered as a voter or to vote, any right to be registered as a voter or to vote.

Construction of Act.

**11.** This Act, so far as may be consistently with the tenor thereof, shall be construed as one with the Representation of the People Acts as defined by this Act; and the expressions "election," "county," and "borough," and other expressions in this Act and in the enactments applied by this Act, shall have the same meaning as in the said Acts.

Provided that in this Act and the said enactments (b)—

\* \* \* \* \*

The expression "rentcharge" includes a fee farm rent . . . a rent seek, a chief rent, a rent of assize, and any rent or annuity granted out of land.

The expression "land or tenement" includes any part of a house separately occupied for the purpose of any trade, business, or profession . . .

\* \* \* \* \*

Repeal of certain superseded sections.

**12.** Whereas the franchises conferred by this Act are in substitution for the franchises conferred by the enactments mentioned in the first and second parts of the second schedule hereto, be it enacted that the Acts mentioned in the first part of the said second schedule shall be repealed to the extent in the third column of that part of the said

(b) Definitions relating to Scotland or Ireland only are here omitted.

schedule mentioned except in so far as relates to the rights of persons saved by this Act; and the Acts mentioned in the second part of the said second schedule shall be repealed to the extent in the third column of that part of the said schedule mentioned except in so far as relates to the rights of persons saved by this Act and except in so far as the enactments so repealed contain conditions made applicable by this Act to any franchise enacted by this Act.

## Section 12.

13. This Act shall commence and come into operation on the first day of January one thousand eight hundred and eighty-five (c). Commencement of Act.

## FIRST SCHEDULE.

[*Enactments applied to Ireland.*]

## SECOND SCHEDULE (d).

## PART I.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
2 & 3 Will. 4, c. 45.	An Act to amend the Representation of the People in England and Wales.	Section twenty, the words "or who shall occupy as tenant any lands or tenements for which he shall be <i>bond fide</i> liable to a yearly rent of not less than fifty pounds."

## PART II.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
2 & 3 Will. 4, c. 45.	An Act to amend the Representation of the People in England and Wales.	Section twenty-seven.
30 & 31 Vict. c. 102.	The Representation of the People Act, 1867.	Section six.

(c) The remainder of this section applied to Scotland only.

(d) See s. 12, *ante*, p. 526. Acts relating to Scotland only are omitted from this Schedule.

## Schedule 3.

## THIRD SCHEDULE.

[*Form of Requisition by Overseers Requiring Names of Inhabitant Occupiers (e).]*

MUNICIPAL VOTERS RELIEF ACT, 1885 (*f*).

(48 & 49 VICT. CAP. 9.)

*An Act to relieve Municipal Voters from being disqualified in consequence of letting their Dwelling-houses for short periods.*

[28th April, 1885.]

41 & 42 Vict.  
c. 3.

30 & 31 Vict.  
c. 102.

WHEREAS by the House Occupiers Disqualification Removal Act, 1878, provision was made that a man should be entitled to be registered as an inhabitant occupier of a dwelling-house under the third section of the Representation of the People Act, 1867, notwithstanding that during a part of the qualifying period not exceeding four months in the whole, he should by letting, or otherwise, have permitted the qualifying premises to be occupied as a furnished house by some other person :

And whereas it is expedient to extend the said Acts to voters at municipal elections :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as the Municipal Voters Relief Act, 1885.

Letting as  
furnished house  
for certain  
period not to  
disqualify.  
P. 243.

2. From and after the passing of this Act a man shall not be disqualified from being enrolled or voting as a burgess at any municipal election in a borough, in respect of the occupation of any house, by reason only that during a part of the qualifying period, not exceeding four months in the whole, he has, by letting or otherwise, permitted such house to be occupied as a furnished dwelling-house by some other person, and during such occupation by another person has not resided in or within seven miles of the borough.

Definitions.  
45 & 46 Vict.  
c. 50.

3. In this Act—

The expression "burgess" has, in England, the same meaning as in the Municipal Corporations Act, 1882 . . . .

The expression "municipal election" has, in England, the same meaning as in the Municipal Corporations Act, 1882 . . . .

\* \* \* \* \*

(*e*) Superseded by the Registration Order, 1895, Second and Third Schedules, Forms (A.).

(*f*) This Act was applied to county electors by 51 & 52 Vict. c. 10, s. 2. Words relating to Scotland and Ireland only are omitted throughout the Act.



## REGISTRATION ACT, 1885.

## Section 1.

(48 &amp; 49 VICT. CAP. 15.)

*An Act to assimilate the Law affecting the Registration of Occupation Voters in Counties and Boroughs, and for other purposes.*

[21st May, 1885.]

WHEREAS it is expedient that the assimilation of the county and borough occupation franchises should be followed by an assimilation of the registration law applicable to those franchises in counties and boroughs :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1.—(1) Subject to the modifications in this Act mentioned, the registration of occupation voters (*g*) in parliamentary counties (*g*) shall be conducted in the like manner as the registration of occupation voters in parliamentary boroughs, and the Parliamentary Registration Acts (*g*) shall apply to parliamentary counties in like manner as they apply to parliamentary boroughs.

Extension to county voters of borough system of registration.  
(1) Occupation voters.

(2) Subject to the modifications in this Act mentioned, the following sections of the Parliamentary and Municipal Registration Act, 1878, that is to say—

(2) Ownership voters.  
41 & 42 Vict. c. 26.

Section nine (relating to the publication of notices at post offices, telegraph offices, and public, municipal, and parochial offices); (*h*)

Section twenty-seven (relating to objections to the lists of voters); (*i*)

Section twenty-eight (relating to the duties and powers of revising barristers); (*k*) and

Section twenty-nine (relating to the power to fine overseers for neglect of duty), (*l*)

shall apply to the registration of ownership voters (*g*) in parliamentary counties in like manner as to the registration of occupation voters; but save as aforesaid, nothing in this section shall be deemed to extend to ownership voters any of the provisions of the Parliamentary Registration Acts which relate to boroughs.

(3) In the construction of the above-mentioned Acts and sections for the purposes of their application by this section, there shall be made the variations following, and such other variations as are necessary for carrying into effect the said application; that is to say,—

(3) Modifications.

(a.) "Parliamentary county" shall be substituted for "parliamentary borough."

(b.) "Clerk of the peace" shall, subject as in this Act mentioned, be substituted for "town clerk," save where the context requires a reference to the town clerk of a municipal borough.

(c.) Section nine of the Parliamentary and Municipal Registration Act, 1878, shall apply only to the publication of notices within parishes situate wholly or partly in an urban sanitary district and not in a parliamentary borough.

41 & 42 Vict. c. 26.

(*g*) Defined in s. 19, *post*.

(*h*) *Ante*, p. 482.

(*i*) *Ante*, p. 488.

(*k*) *Ante*, p. 489

(*l*) *Ante*, p. 492.

## Section 1.

- (d.) Section sixteen of the Parliamentary and Municipal Registration Act, 1878 (*m*), shall not apply to parliamentary counties, except so far as relates to the registration of persons entitled to vote in respect of a lodger qualification.
- (e.) Section twenty-one of the Parliamentary and Municipal Registration Act, 1878 (*n*), shall not apply to parliamentary counties.
- (f.) Any notice required to be given to the town clerk by section twenty-seven of the Parliamentary and Municipal Registration Act, 1878, relating to the withdrawal and revival of objections, shall be given in a parliamentary county to the overseers, and not to the clerk of the peace.

Adaptation of  
Acts as regards  
lists of county  
voters.

2.—(1) For the purpose of the enactments relating to the registration of voters the lists of occupation voters (*o*) in a parliamentary county (*o*) shall be deemed to be part of the list of voters in that county, and any person whose name appears in the list of voters may object to the name of any other person therein, in like manner as if he were on the register of voters for the county.

(2) In the list of voters and register of voters in a parliamentary county there shall be separate lists of—

- (a.) ownership voters ;  
(b.) occupation voters other than lodgers ; and  
(c.) lodgers.

Alteration  
of dates.

3.—(1) In both parliamentary counties and parliamentary boroughs notices of claims and objections shall be given on or before the twentieth day of August, and the twentieth day shall be substituted in the Parliamentary Registration Acts (*o*) for the twenty-fifth day of August wherever the same occurs.

6 & 7 Vict. c. 18.

(2) The overseers shall, in both parliamentary counties and parliamentary boroughs, on or before the twenty-fifth day of August publish the list of claims and objections, and deliver to the clerk of the peace and town clerk respectively the papers mentioned in sections nine and nineteen of the Parliamentary Registration Act, 1843 (*p*) ; and the twenty-fifth day of August shall be substituted in the Parliamentary Registration Acts for the twenty-ninth day of August and for the first day of September wherever those dates respectively occur, and the first fourteen days after the said twenty-fifth day of August shall be substituted for the first fourteen days of September.

Amendments as  
to revision.

P. 316.

4.—(1) The court for the revision of the lists of voters in a parliamentary county may be held within the same period (*q*) within which a court may be held for the revision of the lists of voters in a parliamentary borough, and seven days' notice of each court shall be sufficient.

28 & 29 Vict.  
c. 36.

Pp. 285, 293.

(2) All declarations made in pursuance of section ten of the County Voters Registration Act, 1865 (*r*), shall be transmitted to the clerk of the peace on or before the *twelfth* (*s*) day of September, and such declarations shall be open to inspection, and copies thereof shall be sold,

(*m*) *Ante*, p. 485.

(*o*) Defined in s. 19, *post*.

(*n*) *Ante*, p. 486.

(*p*) *Ante*, pp. 404, 408.

(*q*) See 6 & 7 Vict. c. 18, ss. 32, 33, *ante*, pp. 412, 413, and 51 & 52 Vict. c. 10, s. 6 (1) *post*.

(*r*) *Ante*, p. 442.

(*s*) Fifth ; 51 & 52 Vict. c. 10, s. 6, *post* ; and by the same section September 8th is the first day on which a court for the revision of the lists of voters in a parliamentary county can be held.

on any day prior to the first day on which a court for the revision of the lists of voters in a parliamentary county can be held. **Section 4.**

(3) Where a place in a parliamentary county at which a revising barrister for such county is required to hold a court is an urban sanitary district containing, according to the last published census for the time being, more than ten thousand inhabitants, the revising barrister shall hold at least one evening sitting of his court in such place, and section four of the Revising Barristers Act, 1873 (*t*), shall apply to such sitting with the substitution of clerk of the peace for town clerk. P. 317.  
36 & 37 Vict.  
c. 70.

(4) When it appears to the local authority having power to assign polling places in a parliamentary county (*u*) that, for the convenience of the voters in some polling district in such county, it is expedient to direct the holding of a revision court in a town near such polling district, although outside the boundary of the said county, the said authority may direct the revising barrister for the county to hold a revision court in such town. P. 317.

(5) The revising barrister need not insert (*x*) in any list of voters for a parish in a county or borough the names of persons claiming to be inserted in such list, but may revise the list of claimants in like manner as if it were a list of voters, and sign the same as so revised, and deliver it to the clerk of the peace or town clerk as the case requires, and such clerk shall insert in the proper place in the lists of voters the name of each person appearing from the revised lists of claimants so signed to be entitled to vote. Pp. 349, 354, 359.

(6) The revising barrister shall, if practicable, complete the revision of the lists of voters for the parishes in one polling district in a parliamentary county, and transmit the same to the clerk of the peace of the county, before proceeding to revise the lists of voters for any parish in another polling district. Pp. 317, 358.

(7) The clerk of the peace shall, as soon as possible, proceed to cause copies of such lists to be printed, and in numbering the names shall prefix the number one to the first name in each polling district, so that there may be a separate series of numbers for each polling district, and such distinctive letter shall be applied to each polling district as may be determined by the local authority creating the polling district, or in default of such determination by the clerk of the peace; and in the case of a poll such letter shall be deemed to be part of the number of the elector, to be marked in manner directed by the Ballot Act, 1872. P. 360.  
35 & 36 Vict.  
c. 33.

(8) The clerk of the peace shall, as soon as possible after the receipt of all the revised lists of his county, cause to be made out and printed a separate supplemental list for each polling district, containing the names of all persons whose names do not appear in any list of voters for the parishes in such district, but who have been registered by the revising barrister as entitled to vote at the polling place of such district; and such supplemental list shall be placed at the end of the parish lists in each polling district; and the names therein shall be numbered consecutively after the rest of the lists in such polling district. The clerk of the peace shall add at the end of the register of voters a summary of the number of voters in each polling district. P. 360.

(*t*) *Ante*, p. 474.

(*u*) See 30 & 31 Vict. c. 102, s. 34, and 31 & 32 Vict. c. 58, s. 18, *ante*, pp. 452, 457, and 51 & 52 Vict. c. 41, s. 3 (xii.), *post*.

(*x*) See 6 & 7 Vict. c. 18, s. 38, and 30 & 31 Vict. c. 102, s. 30, *ante*, pp. 415, 451.

**Section 4.**

41 & 42 Vict.  
c. 26.

P. 339.

(9) Sub-section fourteen of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878 (*g*), shall not apply to parliamentary counties, and in substitution for it the following provisions shall have effect :—

P. 340.

(a) Where the name of a person appears to be entered more than once as a parliamentary voter on the lists of voters for the same parliamentary county, the revising barrister shall inquire whether such entries relate to the same person, and, on proof that such entries relate to the same person, shall retain one entry and *erase* (:) the others.

P. 341.

(b) The said person may select the entry to be retained by notice in writing delivered or sent by post to the revising barrister at or before the opening of the first court at which he revises any of the lists at which any of such entries appear, or by application made by such person or on his behalf at the time of the revision of the first of such lists.

(c) If no selection is so made, the entry to be retained shall be determined as follows :

(i.) if one only of the entries is on the list of ownership voters (*a*), that entry shall be retained ; and

(ii.) if all or none of the entries are on the list of ownership voters, and one of the entries is the place of abode of the voter, the entry in respect of the place of abode shall be retained ; and

(iii.) in any other case the entry in that one of the lists which is first revised by the revising barrister shall be retained,

and if any such entry to be retained is objected to, the revising barrister shall not finally *erase* (:) any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.

Provision as  
to double  
entries in  
boroughs.

P. 339.

5.—(1) Where a person is entered more than once as a parliamentary voter on the lists of voters for the same parliamentary borough, and the revising barrister proceeds in pursuance of sub-section fourteen of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878 (*g*), to retain one of such entries for voting, and places against the others a note to the effect that such person is not entitled to vote in respect of the qualification therein contained, and such person has not selected the entry to be retained, the entry to be retained shall be determined as follows :

P. 340.

(a) If one of the entries is on the list of freemen (*b*), that entry shall be retained ; and

(b) If neither of the entries is on the list of freemen, and one of the entries is the place of abode of the voter, the entry in respect of the place of abode shall be retained ; and

(*g*) *Ante*, p. 491.

(:) If in division one of the occupiers' list, *place an asterisk or other mark against* ; 51 & 52 Vict. c. 10, s. 7 (*5*) *post* : but now instead of placing such asterisk or other mark, the revising barrister shall place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list, or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to vote as a parochial elector : 56 & 57 Vict. c. 73, s. 44, *post*.

(a) Defined in s. 19, *post*.

(b) See 6 & 7 Vict. c. 18, s. 14, *ante*, p. 406.



(c) In any other case the entry in that one of the lists which is first revised by the revising barrister shall be retained ; Section 5.  
 and if any such entry to be retained is objected to, the revising barrister shall not finally place a note against any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.

(2) Where a parliamentary borough is divided into divisions (c), and notwithstanding the said provisions of the Parliamentary and Municipal Registration Act, 1878, and this Act, the name of a person is entered in the register of parliamentary voters in more than one division in the said parliamentary borough without such note as above in this section mentioned, and one of those entries is his place of abode, he shall be entitled to vote only in that division in which he is registered as a voter in respect of his place of abode, and shall not vote in respect of any other entry.

6. —(1) [*This sub-section is repealed by 51 & 52 Vict. c. 10, s. 4, post.*]

(2) But where any part of the area of the said municipal borough (f) was immediately before the dissolution of this present Parliament included in the area of a parliamentary borough, and such parliamentary borough ceased after such dissolution to be a parliamentary borough (g), then the registration of occupation voters and the enrolment of burgesses in a parish in such municipal borough shall be conducted in like manner, so nearly as may be, as heretofore, and the Parliamentary and Municipal Registration Act, 1878, shall apply to the said municipal borough in like manner as heretofore, subject nevertheless as follows :

Saving as to registration of burgesses and voters in parishes in municipal boroughs.

(a.) "Parliamentary county" (h) shall, for the purpose of such application, be substituted for "parliamentary borough."

(b.) The lists and register of voters shall be made out alphabetically in like manner as in the rest of the county, but the lists shall be framed in parts for polling districts and wards in such manner that the parts may be conveniently compiled or put together to serve as lists for polling districts or as ward lists.

(c.) The overseers of every parish in such municipal borough shall send to the clerk of the peace for the parliamentary county (h) two copies of the lists of voters at the same time at which they send copies to the town clerk, and the lists of voters for a parish in such borough when revised shall be transmitted by the revising barrister to such clerk of the peace, and dealt with by him as with other lists in his county, but, save as aforesaid, the town clerk of the municipal borough shall, until such transmission, act as and be deemed to be the town clerk within the meaning of the Parliamentary Registration Acts (h) and this Act in relation to such parish, and the clerk of the peace shall not act in relation to the registration of occupation voters (h) in such parish.

(e) See the Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), s. 8, and Schedule 6. In England the divided boroughs are Battersea and Clapham, Bethnal Green, Birmingham, Bradford, Bristol, Camberwell, Finsbury, Hackney, Islington, Kensington, Kingston-upon-Hull, Lambeth, Leeds, Liverpool, Manchester, Marylebone, Newington, Nottingham, Paddington, St. Pancras, Salford, Sheffield, Shoreditch, Southwark, Swansea, Tower Hamlets, West Ham, Wolverhampton.

(f) *I.e.*, a municipal borough not co-extensive with nor wholly included in a parliamentary borough.

(g) See the Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), s. 2, and Schedule 1.

(h) Defined in s. 19, *post*.

## Section 6.

(d.) The lists of occupation voters (*i*) and burgesses shall be revised by the revising barrister for the parliamentary county (*i*) in which the municipal borough is situate, and if that borough extends into more parliamentary counties than one, then by the revising barrister for the parliamentary county in which the greater part in extent of such municipal borough is situate, and such revising barrister shall hold a court in the municipal borough (*k*).

Clerks of the peace and town clerks.

P. 283.

P. 281.

6 & 7 Vict. c. 18.

P. 282.

7.—(1) Clerks of the peace and town clerks shall send their precepts to the overseers . . . on or within seven days before the fifteenth day of April (*l*).

(2) Where a parliamentary county (*i*) is co-extensive with or comprised in one county quarter sessional area (*i*), the clerk of the peace for that area (*i*) shall, as regards such parliamentary county, be clerk of the peace for the county within the meaning of the Parliamentary Registration Acts (*i*), and this Act, subject nevertheless to the provisions of section one hundred and one of the Parliamentary Registration Act, 1843, with respect to the town clerk of the borough of Newport, Isle of Wight, being deemed and taken to be clerk of the peace for the parliamentary county of the Isle of Wight (*m*).

(3) Where a parliamentary county (*i*) extends into more county quarter sessional areas (*i*) than one, the clerk of the peace of each county quarter sessional area (*i*) shall, in respect of each parish in such parliamentary county which is within his jurisdiction, act as and be deemed to be the clerk of the peace of the county within the meaning of the Parliamentary Registration Acts (*i*), and this Act, until the lists of voters for such parish have been revised; but the revising barrister shall transmit the revised lists of voters for such parish to the clerk of the peace of the county quarter sessional area which comprises the largest part in extent of the said parliamentary county, and save as aforesaid, such last-mentioned clerk shall, as respects the said parliamentary county, act as, and be deemed to be sole clerk of the peace of the county for the purposes of the Parliamentary Registration Acts and this Act (*n*).

Application of 30 & 31 Vict. c. 102, s. 31, as to remuneration of clerks of the peace.

P. 363.

8. Whereas by section thirty-one of the Representation of the People Act, 1867 (*o*), it was provided that the word "expenses" in sections fifty-four and fifty-five of the Parliamentary Registration Act, 1843 (*p*), should include and apply to all proper and reasonable fees and charges of any clerk of the peace of any county, or of any town clerk of any city or borough to be thereafter made or charged by him in any year for his trouble, care, and attention in the performance of the services and duties imposed on him by the above mentioned Acts:

And whereas doubts may arise as to whether the said section would extend to services and duties imposed upon him by the Representation

(*i*) Defined in s. 19, *post*.

(*k*) This sub-section is applied by 51 & 52 Vict. c. 10, s. 4, to every municipal borough to which 41 & 42 Vict. c. 26, did not apply.

(*l*) Words relating to the year 1885 only are omitted from this sub-section. As to these precepts see 6 & 7 Vict. c. 18, ss. 3 and 10, *ante*, pp. 402, 424.

(*m*) *Ante*, p. 432.

(*n*) See 51 & 52 Vict. c. 10, s. 14.

(*o*) *Ante*, p. 452.

(*p*) *Ante*, pp. 422, 423.

of the People Act, 1884, or this Act, and it is expedient to remove such doubts: Be it therefore enacted as follows: **Section 8.**

Section thirty-one of the Representation of the People Act, 1867 (*q*), with respect to the remuneration of clerks of the peace and town clerks, shall extend to their duties under the Representation of the People Act, 1884, and this Act.

9. Where a parish is situate partly within and partly without the boundary of a parliamentary county, or of a parliamentary borough, or of a municipal borough, the burgesses of which are enrolled in accordance with the Parliamentary and Municipal Registration Act, 1878, the Parliamentary Registration Acts and this Act shall apply as if the several parts of the parish divided by such boundaries were respectively separate parishes, and the overseers of the whole undivided parish were also the overseers of each such separate parish. Divided parishes. P. 290. 41 & 42 Vict. c. 26.

10. [*Special provisions as to voters in 1885.*]

11. A man entitled to be registered as a fifty pounds rental voter (*r*) shall be registered as an occupation voter (*r*) and not as an ownership voter, and shall be included in the expression "occupation voter" in this Act, and it shall be the duty of the overseers to insert the name of every fifty pounds rental voter in the list of occupation voters, and to add "objected" before the name of such voter in the portion of the register relating to ownership voters. Provision as to voters in respect of 50*l.* rental. P. 86.

12. Whereas by section seven of the Parliamentary and Municipal Registration Act, 1878 (*s*), it is provided that every period of qualification for parliamentary voters in parliamentary boroughs which was then computed by reference to the last day of July should be computed by reference to the fifteenth day of July, and the said enactment extends to occupation voters (*r*) in parliamentary counties, and it is expedient to extend the same enactment to all other voters in parliamentary counties: Be it therefore enacted as follows: Extension to freeholders of 41 & 42 Vict. c. 26, s. 7, as to the period of qualification.

Every period of qualification as defined by the said Act for any voter in a parliamentary county (*r*) which is now computed by reference to the last day of July shall, instead of being so computed, be computed by reference to the fifteenth day of July.

13.—(1) Where a parliamentary county (*t*) is co-extensive with or is comprised within one county quarter sessional area (*t*), the court of county quarter sessions having jurisdiction in that area (*u*) shall be the local authority having power to divide such parliamentary county into polling districts within the meaning of the enactments relating to polling districts. As to constitution of polling districts.

(2) Where a parliamentary county (*t*) extends into more county quarter sessional areas (*t*) than one, the court of county quarter sessions (*u*) for the area which comprises the largest part in extent of such parliamentary county shall be the local authority having power to divide such parliamentary county into polling districts.

(3) Where a parliamentary county extends into more county quarter sessional areas than one, the local authority having power to divide the said county into polling districts shall have power to agree with any

(*q*) *Ante*, p. 452.

(*s*) *Ante*, p. 481.

(*r*) Defined in s. 19, *post*.

(*t*) Defined in s. 19, *post*.

(*u*) Now the county council; see 51 & 52 Vict. c. 41, s. 3 (xii), *post*.

**Section 13.** other court of quarter sessions (*u*) having jurisdiction in that area for the constitution of a joint committee to take into consideration the division of such county into polling districts and assigning of polling places to such districts, and shall, after receiving the report of the said committee, make such order thereon as they may think fit.

(4) The local authority having power to divide any parliamentary county or parliamentary borough into polling districts shall, not later than one month after the passing of this Act, take into consideration the division of such county or borough into polling districts, and, if necessary, in order to make the districts conform with the enactments relating to the division of counties and boroughs into polling districts, shall divide such county and borough, or any division of such borough, anew into polling districts, and (in a county) assign polling places to such districts, in such manner as shall make the districts so conform with the said enactments, measuring the distance therein mentioned along the nearest road, so as to meet the convenience of electors in recording their votes.

(5) A court of general sessions shall, where necessary for the purposes of this section, be assembled forthwith after the passing of this Act.

As to expenses  
in case of divided  
county  
jurisdiction.

**14.—**(1) Where any expenses have been incurred, either by the court of county quarter sessions (*v*) of any county quarter sessional area (*w*) in dividing a parliamentary county (*x*) into polling districts, or by the clerk of the peace of any county quarter sessional area (*y*) under the Parliamentary Registration Acts (*z*), or this Act, and such expenses were incurred partly in respect of a locality which does, and partly in respect of a locality (whether a division, liberty, county of a town, or other locality) which does not, contribute to the county rate levied by the court of county quarter sessions (*v*) of such county quarter sessional area, that court shall apportion the expenses between the localities in the ratio, so nearly as may be, which the number of registered voters in each locality for the time being bear to each other, and the amount apportioned to any such non-contributing locality shall be defrayed out of the county rate or rate in the nature of a county rate levied in such locality; and an order of the said court of county quarter sessions (*v*), made on the treasurer or other officer receiving such rate, shall be obeyed by and may be enforced against such treasurer, as if he were the treasurer of the court of county quarter sessions making the order.

(2) Where a parliamentary borough is situate within the jurisdiction of more than one court of county quarter sessions, and by reason of there being no town council in such borough, the expenses of the town clerk under the Parliamentary Registration Acts and this Act are required to be allowed by the quarter sessions for the county in which such parliamentary borough is situate, such expenses shall be allowed by the court of county quarter sessions within the jurisdiction of which the larger portion of such parliamentary borough in area is situate.

(3) The receipts of any clerk of the peace under the Parliamentary Registration Acts shall be applied in aid of the rate which bears the expenses of such clerk, and if there is more than one such rate, then of each rate in the proportion in which the expenses are borne by such rates.

Repeal of 2 & 3  
Will. 4, c. 45,  
s. 78,  
P. 195.

**15.** From and after the passing of this Act section seventy-eight of the Act of Parliament passed in the second and third years of the reign

(*v*) Now the county council; see 51 & 52 Vict. c. 41, s. 3 (xii.), *post*.

(*w*) Defined in s. 19, *post*.



of His Majesty King William the Fourth, chapter forty-five (*y*), shall be and the same is hereby repealed. **Section 15.**

Provided that no person shall be prevented by any other Act (z) from being registered as a parliamentary voter in respect of his occupation of any chambers or premises in any of the colleges or halls of the Universities of Oxford or Cambridge.

16. Any person registered as a parliamentary voter in the register of voters for a parish may, by notice in writing delivered or sent to the clerk of the guardians for such parish, or for the union containing such parish, require such clerk to send to him a list giving the names and addresses as appearing in the books of the guardians and their officers, either of all men of full age, or of all persons who have, during the period specified in the notice, received out of the rates administered by such guardians, either parochial relief or outdoor parochial relief, and at the time of receiving such relief were recorded as resident in the said parish or union, and the clerk of the guardians, on payment of fees after the rate allowed by the Parliamentary and Municipal Registration Act, 1878, for returns by registrars of births and deaths (*a*), shall send the list with such of the said particulars as are specified in the notice, and the relieving officers of the guardians shall give the clerk the information he requires for that purpose, and shall receive from the clerk a reasonable remuneration for so doing, and if any clerk or relieving officer refuses or fails to comply with this section he shall be deemed guilty of a wilful act of commission or omission within the meaning of section ninety-seven of the Parliamentary Registration Act, 1843 (*b*). Information as to persons disqualified by parochial relief, 41 & 42 Vict. c. 26. 6 & 7 Vict. c. 18.

17. The Acts mentioned in the First Schedule to this Act shall to the extent in the third column of that schedule mentioned be repealed without prejudice to anything done in pursuance thereof before the passing of this Act. Repeal.

18. The forms and instructions contained in the second and third schedules to this Act shall be used and observed in all cases to which they apply, and shall be substituted in all such cases for the forms, instructions, and directions contained in the schedules to the Parliamentary Registration Act, 1843, the County Voters Registration Act, 1865, the Representation of the People Act, 1867, the Parliamentary and Municipal Registration Act, 1878, and the Representation of the People Act, 1884, but a disregard of any form or instruction shall not of itself invalidate any list, notice or other thing (*c*). Enactment of forms, etc. 6 & 7 Vict. c. 18. 28 & 29 Vict. c. 36. 30 & 31 Vict. c. iv. 2. 41 & 42 Vict. c. 26. 48 & 49 Vict. c. 3.

19. In this Act, unless the context otherwise requires,—

**Definitions.**

The expression “ownership voter” means a person entitled to vote in respect of the ownership of property, whether of freehold, leasehold, or copyhold tenure.

The expression “fifty pounds rental voter” means a person who on the sixth day of December one thousand eight hundred and eighty-four

(*y*) *Ante*, p. 397.

(*z*) *E.g.*, the Cambridge Award Act, (19 & 20 Vict. c. xvii).

(*a*) Twopence for the list and a further fee of twopence for every name entered in the list. See *ante*, p. 483, and 37 & 38 Vict. c. 88, s. 28.

(*b*) *Ante*, p. 430.

(*c*) See now 51 & 52 Vict. c. 41, s. 76 (7), and the Registration Order, 1895, *post*.

## Section 19]

2 & 3 Will. 4.  
c. 35.

was registered as a voter for a county in pursuance of section twenty of the Reform Act, 1832 (*d*), in respect of the occupation of any land or tenement for which he was *bound fide* liable to a yearly rent of not less than fifty pounds, and who continues by virtue of section ten of the Representation of the People Act, 1884 (*e*), to be entitled to be registered as a voter in respect of such occupation.

The expression "occupation voter" means, as regards a parliamentary county, a person entitled to vote in respect of any qualification conferred by the Representation of the People Act, 1884 (*f*), and as regards a parliamentary borough means a person entitled to vote in respect of any qualification conferred by section five of the Representation of the People Act, 1884 (*g*), or in respect of a household qualification or a lodger qualification as defined by that Act.

6 & 7 Vict.  
c. 18.  
41 & 42 Vict.  
c. 26.

The expression "Parliamentary Registration Acts" means the Parliamentary Registration Act, 1843 (*h*), and the Parliamentary and Municipal Registration Act, 1878 (*i*), inclusive of any Acts and enactments amending the said Acts, or otherwise relating to revising barristers or to the registration of voters, and of any Acts and enactments relating to rating in so far as they are auxiliary to or deal with the registration of voters.

The expression "parliamentary county" means a county returning a member or members to serve in Parliament, and where a county is divided for the purpose of such return means a division of such county (*k*).

The expression "court of county quarter sessions" means the justices in general or quarter sessions assembled for any county at large, or riding, or parts of a county at large having a separate commission of the peace and a separate court of quarter sessions, and includes the justices in general or quarter sessions assembled for the Isle of Ely (*l*).

The expression "county quarter sessional area" means the area of the jurisdiction as extended by this Act of any court of county quarter sessions, and includes the Isle of Ely; and save as aforesaid, for the purposes of this Act every liberty, county of a city, or county of a town which for the purposes of parliamentary elections forms part of any county at large, riding, or parts shall be deemed to be within the jurisdiction of the court of county quarter sessions and the clerk of the peace of such county at large, riding or parts.

The expression "clerk of the peace for a county quarter sessional area" means the clerk of the peace for such county at large, riding or parts as aforesaid, and includes the clerk of the peace for the Isle of Ely.

Other expressions in this Act have, unless the context otherwise requires, the same meaning as in the Parliamentary Registration Acts.

20. This Act shall not apply to Scotland or Ireland, and may be cited for all purposes as the Registration Act, 1885.

Extent and  
short title of  
Act.

(*d*) *Ante*, p. 390.

(*g*) *Ante*, p. 523.

(*e*) *Ante*, p. 526.

(*h*) *Ante*, p. 401.

(*f*) *Ante*, p. 522.

(*i*) *Ante*, p. 479.

(*k*) See the Redistribution of Seats Acts, 1885 (48 & 49 Vict. c. 23), s. 9, and Schedule 7.

) Now the county council; see 51 & 52 Vict. c. 41, ss. 3 (xii.), and 46, 208*st*.

## SCHEDULES.

## Schedule 1

## FIRST SCHEDULE.

Section 17.

*Enactments repealed.*

Session and Chapter.	Title.	Part Repealed.
6 Vict. c. 18.	The Parliamentary Registration Act, 1843.	Section forty. Schedule A.
28 & 29 Vict. c. 36.	The County Voters Registration Act, 1865.	Section four. Section five. Section twelve. Schedule A.
30 & 31 Vict. c. 102.	The Representation of the People Act, 1867.	So much of section thirty as relates to persons entitled to vote for a county in respect of the occupation of premises other than lodgings.
31 & 32 Vict. c. 58.	The Parliamentary Electors Registration Act, 1868.	Section seventeen. Section nineteen.

[The Second and Third Schedules, containing the precepts of the Clerks of the Peace and Town Clerks to the Overseers, and Forms, are now superseded by the Registration Order, 1895, *post*.]

## REDISTRIBUTION OF SEATS ACT, 1885.

(48 &amp; 49 VICT. CAP. 23.)

*An Act for the Redistribution of Seats at Parliamentary Elections, and for other purposes.* [25th June, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

*Preliminary.*

1. This Act may be cited as the Redistribution of Seats Act, 1885. Short title.

\* \* \* \* \*

## PART II.

## SUPPLEMENTAL PROVISIONS.

10. The occupation in immediate succession of different premises situate within a parliamentary borough shall, for the purpose of qualifying a person for voting in any division of such borough in respect of immediate

Qualification by occupation of premises in immediate

**Section 10.** of occupation (otherwise than as a lodger), have the same effect, as if all such premises were situate in that division of the borough in which the premises occupied by such person at the end of the period of qualification are situate.

Succession in divided borough.

Pp. 150, 192.

As to boroughs divided into divisions.

\* \* \* \* \*

**13.—(3)** For the purpose of determining the distance of the residence of any voter, and for all purposes of and incidental to the registration of voters in a parliamentary borough divided into divisions, and for the purpose of the enactments respecting the division of any such borough into polling districts, all the divisions shall be deemed to form the same parliamentary borough: Provided that the lists and register of voters for the borough shall be framed, printed, and arranged in parts so as to correspond to the divisions thereof; and the voters in each division shall be numbered in a separate series.

Registration of freemen in divided borough. P. 327.

**14.—(1)** In a parliamentary borough divided into divisions persons registered as freemen shall be entitled to vote—

- (a) If their place of abode is in the borough, then in the division in which such place of abode is situate; and
- (b) If their place of abode is not in the borough, then in the division to which such persons (in this section referred to as non-resident freemen) are allotted by the revising barrister, and shall not be entitled in respect of the qualification of freemen to vote elsewhere than in such division, and the registration of voters shall be conducted and the register of voters arranged so as to give effect to this enactment.

(2) The non-resident freemen shall be allotted in equal numbers so nearly as may be among the several divisions of the borough as follows:—

- (a) At the first revision after the passing of this Act the revising barrister shall first settle by lot the order of the divisions of the borough for the purpose of the allotment, and then allot among such divisions the non-resident freemen, allotting to the division first in order the freemen whose names are earliest in alphabetical order, and so on with the other divisions and freemen;
- (b) At every subsequent annual revision at which any non-resident freemen not on the then-existing register are registered, the revising barrister shall allot them among the divisions in such manner as may, so nearly as may be, maintain an equal number of non-resident freemen in each division, and shall allot them according to alphabetical order by allotting those whose names are the earliest in alphabetical order to the first division (according to the order settled as aforesaid) to which at that revision any freeman is to be allotted.

\* \* \* \* \*

Detached parts of parishes.

**18.** Any such constitution of new parishes or division or alteration of boundaries of parishes made for Poor Law purposes by or in pursuance of any Act of Parliament, as has come into operation on or before the twenty-sixth day of March, one thousand eight hundred and eighty-five, and any alteration of the boundary of a county which is incidental to such constitution, division, or alteration, shall have effect also for all purposes of the law relating to parliamentary elections for any future Parliament.

**19.—[(1)** *Transitory provisions as to registers of voters relating to the year 1885.*]



(2) Divisions of counties may be divided into polling districts at any time after the passing of this Act in like manner as they might be divided after the end of this present Parliament. **Section 19.**

(3) Where any act or thing has, before this Act came into operation, been done in pursuance of the Registration Acts, or in relation to polling districts or polling places, such act or thing shall be as valid as it would have been if this Act had previously thereto come into operation, and it had been done by the officer or authority and in the form and in relation to the constituency by whom and in relation to which it would have been done if this Act had previously thereto come into operation, and where any act or thing ought to have been done if this Act had come into operation before the time for doing the same, the same shall be done forthwith after this Act comes into operation and shall be as valid as if it had been done at the time now appointed by law.

(4) [*Supplementary precepts in 1885.*]

(5) [*Polling in Ireland.*]

20.—(1) Where the boundary of a parliamentary borough or division of a borough does not follow the boundary of a parish or township, or other well-defined line of demarcation, the local authority having power to divide such borough into polling districts shall, as soon as may be after the passing of this Act, cause the several points of deviation of the boundary to be marked by means of boundary stones, posts or other marks, which shall from time to time be maintained and renewed by such local authority.

Marking of boundaries where they do not follow well-defined lines.

(2) For the purposes of this section, any officer authorized in that behalf by the local authority, may, by himself and his workmen enter upon any lands, doing as little damage as possible and making compensation for such damage, the amount of such damage to be determined in case of dispute in manner provided by the Lands Clauses Consolidation Acts, with respect to disputed compensation for land.

(3) All expenses properly incurred by a local authority in pursuance of this section shall be defrayed as part of the expenses of the town clerk in the registration of voters for the parliamentary borough.

21. All writs to be issued for parliamentary elections, and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs or relating to parliamentary elections or the registration of voters, shall be framed and expressed in such manner and form as may be necessary for carrying into effect the provisions of this Act, and of the Representation of the People Act, 1884.

Adaptation of writs.

22. Subject to the provisions of this Act, the law now in force relating to parliamentary elections shall remain in full force and shall apply as nearly as circumstances admit, to any constituency authorized by this Act to return a member or members to Parliament as if it had heretofore returned such members to Parliament.

48 & 49 Vict. c. 3.

Election laws to remain in force,

\* \* \* \* \*

24. In this Act, unless the context otherwise requires :—

Definitions.

The expression “member” means a member to serve in Parliament and includes a knight of a shire.

The expression “parliamentary election” means the election of a member or members.

The expression “law relating to parliamentary elections” includes all laws, customs, and enactments relating to parliamentary elections, inclusive of the law respecting the qualification and registration of voters.

**Section 24.**

8 & 9 Vict. c. 18.  
48 & 49 Vict. c. 3.

The expression "Lands Clauses Consolidation Acts" means the Lands Clauses Consolidation Act, 1845, and the Acts amending the same.

The expression "the Registration Acts" has the same meaning as in the Representation of the People Act, 1884.

**MEDICAL RELIEF DISQUALIFICATION REMOVAL ACT, 1885.**

(48 & 49 VICT. CAP. 46.)

*An Act to prevent Medical Relief disqualifying a person from voting.*

[6th August, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited as the Medical Relief Disqualification Removal Act, 1885.

Medical relief  
not to dis-  
qualify.  
P. 273.

2.—(1) Where a person has in any part of the United Kingdom received for himself, or for any member of his family, any medical or surgical assistance, or any medicine at the expense of any poor rate, such person shall not by reason thereof be deprived of any right to be registered or to vote either—

- (a) as a parliamentary voter; or
- (b) as a voter at any municipal election; or
- (c) as a burgess; or
- (d) as a voter at any election to an office under the provisions of any statute;

but nothing in this section shall apply to the election—

- (a) of any guardian of the poor; or
- (b) of any member of any parochial board in Scotland; or
- (c) of any other body acting in the distribution of relief to the poor from the poor rate.

(2) Every person shall be qualified to be registered as a voter and to vote as aforesaid who would be so qualified if the provisions of this Act had come into force on the fifteenth day of July one thousand eight hundred and eighty-four.

3. [*Provisions for registration in 1885.*]

Definition of  
medical and  
surgical  
assistance.

4. The term "medical or surgical assistance" in this Act shall include all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the medical officer having authority to give such attendance and recommendation at the expense of any poor rate.

**REVISING BARRISTERS ACT, 1886.**

(49 & 50 VICT. CAP. 42.)

*An Act for amending the Law as to the appointment of Revising Barristers in England.*

[25th June, 1886.]

6 & 7 Vict. c. 18.

WHEREAS doubts have arisen as to the judge authorized to appoint revising barristers on circuit under section twenty-eight of the Parliamentary Voters Registration Act, 1843, and the Acts amending the

same, and it is expedient to remove such doubts, and also to amend the said Acts : **Section 1.**

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1.—(1) The senior judge named in the commission of assize for the counties within any circuit, who actually travels that circuit or any part thereof during the summer circuit in any year, or such other judge (if any) as may be arranged by the judges going the summer circuit, shall be the judge having power to appoint the barristers to revise the list of voters for that year within such circuit in pursuance of section twenty-eight of the Parliamentary Voters Registration Act, 1843 (*m*), and that section shall be construed accordingly.

Senior judge actually travelling to appoint revising barristers.  
P. 314.

(2) Provided that if any judge having power to appoint revising barristers for any circuit, before he has appointed all or any of the barristers whom he is authorized to appoint, dies or becomes unable to appoint such barristers, the senior judge named in the said commission, who actually travels the remainder of the circuit, or such other judge (if any) as may be arranged by the judges going the summer circuit, shall be the judge having power to appoint such barristers so far as they have not been already appointed.

(3) For the purposes of this section, but subject to any alterations of circuits hereafter made, Birmingham shall be deemed to be part of the Midland Circuit, and the county of Surrey shall be deemed to be a circuit (*n*).

2.—(1) If at any time after the *fifth* (*o*) day of September in any year it is made to appear to one of Her Majesty's principal Secretaries of State that the number of barristers appointed to revise the lists of voters for counties and boroughs on any circuit is insufficient, he shall signify such fact by notice under his hand to any judge of the High Court of Justice then sitting in chambers, and thereupon such judge shall appoint such number of duly qualified barristers as are specified in such notice to act in addition to the barristers originally appointed for such circuit, and a barrister so appointed shall have in all respects the same duties, powers, rights, and authorities as if he had been originally appointed.

Power to appoint additional barristers.  
P. 315.

(2) There shall be paid to every additional barrister so appointed the sum of five guineas for every day that he is employed, together with three guineas each day for travelling and other expenses (*p*); and such barrister, after the termination of his last sitting, shall send to the Commissioners of Her Majesty's Treasury a statement of his appointment and a statement of the number of days during which he has been employed, and the said Commissioners shall pay the sum to the barrister

(*m*) *Ante*, p. 410.

(*n*) See 51 & 52 Vict. c. 41, s. 76 (4). Further by Order in Council dated July 28th, 1893, and made under s. 23 of the Supreme Court of Judicature Act, 1875 (38 & 39 Vict. c. 77), it was ordered that the county of Surrey should be included in the south eastern circuit. This order came into force on October 1st in the same year. (See *London Gazette*, 1893, p. 4428.)

(*o*) First; 51 & 52 Vict. c. 10, s. 10 (3).

(*p*) Total amount not to exceed 250 guineas; 51 & 52 Vict. c. 10, s. 9.

**Section 2.** out of moneys provided by Parliament, so, however, that he shall not receive from them more than *two hundred guineas* (*pp*).

(3) The Treasury shall lay before both Houses of Parliament within twenty days after the next meeting of Parliament, a statement of all appointments of additional barristers and of the sums paid to them.

(4) Where any judge appoints barristers for counties and boroughs on any circuit, he shall appoint them to act for all the counties and boroughs for which he has power to appoint revising barristers; and each barrister, when acting for any county or borough, shall have in all respects the same duties, powers, rights, and authorities as if he had been appointed sole revising barrister for such county or borough.

(5) For the purposes of this section the expression "circuit" includes Middlesex and the boroughs therein and the city of London, and the expression "judge" includes the Lord Chief Justice (*q*).

Short titles and  
construction.

3. The Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter eighteen, intituled "An Act to amend the law for the registration of persons entitled to vote, and to define certain rights of voting, and to regulate certain proceedings in the election of members to serve in Parliament for England and Wales," is in this Act referred to and may be cited as the Parliamentary Voters Registration Act, 1843.

This Act shall be construed as one with the Parliamentary Voters Registration Act, 1843, and that Act and this Act and the Registration Act, 1885, may be cited together as the Parliamentary Voters Registration Acts, 1843, 1885, and 1886, and this Act may be cited separately as the Revising Barristers Act, 1886.

4. [*Continuance of Act until December 31st, 1887* (*r*).]

## POLICE DISABILITIES REMOVAL ACT, 1887.

(50 & 51 VICT. CAP. 9.)

*An Act to remove the Disabilities of the Police to vote at Parliamentary Elections.* [23rd May, 1887.]

WHEREAS it is expedient that any person otherwise entitled to be registered as a voter should be incapacitated to vote at parliamentary elections by reason of his being employed in or in connection with the police :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

Repeal.  
P. 269.

1. The enactments mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column of the said schedule.

2. [*Constable on duty to be entitled to vote at any polling station.*]

(*pp*) Two hundred and fifty guineas ; 51 & 52 Vict. c. 10, s. 9.

(*q*) So long as a separate commission of assize issued for Surrey, that county to be a circuit within the meaning of this section ; 51 & 52 Vict. c. 10, s. 10 (2). But see note (*v*), *ante*, p. 543.

(*r*) Repealed by 51 & 52 Vict. c. 10, s. 10, perpetuating and amending this Act.



3. A person otherwise entitled to be registered as a voter at parliamentary elections in respect of the occupation of a dwelling-house shall be deemed an inhabitant occupier thereof as tenant notwithstanding his temporary absence therefrom in the execution of duty as a police officer during a part of the qualifying period, not exceeding four consecutive months (s).

**Section 3.**

Registration in case of temporary absence of police officer on duty.

P. 194.

4. [*Amendment of section 9 of 19 & 20 Vict. c. 2*] (t).

5. [*Saving as to section 8 of 17 & 18 Vict. c. 102*] (u).

6. This Act may be cited as the Police Disabilities Removal Act, 1887. Short title.

### SCHEDULE.

#### PART I.—ENGLAND AND WALES.

Session and Chapter.	Title.	Extent of Repeal.
10 Geo. 4, c. 44	An Act for improving the police in and near the metropolis.	Section eighteen, the words "shall, during the time that he shall continue in any such office or within six calendar months after he shall have quitted the same, be capable of giving his vote for the election of a member for the counties of Middlesex, Surrey, Hertford, Essex, or Kent, or for any city or borough within the Metropolitan Police District, nor"
2 & 3 Vict. c. 93	An Act for the establishment of county and district constables by the authority of justices of the peace.	Section nine, "be capable of giving his vote for the election of a member to serve in Parliament for the county in which he is so appointed, or for any county adjoining thereto, or for any city or borough within any of the said counties, nor shall any such constable"

(s) See 54 & 55 Vict. c. 11.

(t) The effect of this is to prevent the assistant commissioners of metropolitan police from indirectly interfering in parliamentary elections for Middlesex, Surrey, Hertford, Essex, or Kent, or any city or borough within the metropolitan police district.

(u) The effect of this is that constables cannot claim to be exempt from serving as special constables during elections.

## Schedule.

PART I.—ENGLAND AND WALES—*continued*.

## PART I.

Session and Chapter.	Title.	Extent of Repeal.
2 & 3 Vict. c. xciv. (Private.)	An Act for regulating the police in the City of London.	Section eight, “be capable of giving his vote for the election of a member to serve in Parliament for the city of London or for the counties of Middlesex, Surrey, Hertford, Essex, or Kent, or for any city or borough within the Metropolitan Police District, nor shall ”
19 & 20 Vict. c. 2	An Act to amend the Acts relating to the metropolitan police.	Section nine, the words “or voting in certain elections of members to serve in Parliament ”
19 & 20 Vict. c. 69	An Act to render more effectual the police in counties and boroughs in England and Wales.	Section nine, the words “or for the election of a member to serve in Parliament for such borough, or any county in or to which such borough is situate, either wholly or in part, or adjoins, or for any borough within such county ”
22 & 23 Vict. c. 135.	An Act for the employment of the metropolitan police force in Her Majesty's yards and military stations.	Section five, the words “be capable of giving his vote for the election of a member to serve in Parliament for any county, or division of a county or city, borough or place in which, or in any part of which, he may be authorized to act under the provisions herein contained, or ”

## COUNTY ELECTORS ACT, 1888. (51 &amp; 52 VICT. CAP. 10.)

*An Act to provide for the Qualification and Registration of Electors for the purposes of Local Government in England and Wales.*

[16th May, 1888.]

WHEREAS it is expedient to make provision with respect to the qualification and registration of electors of any representative bodies (in

this Act referred to as "county authorities") which may be established under any Act of the present session of Parliament for the purposes of local government in counties in England :

## Section 1.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

1. This Act may be cited as the County Electors Act, 1888.

Short title and construction.  
48 & 49 Vict.  
c. 15.

The Registration Act, 1885, and the Parliamentary Registration Acts within the meaning of that Act (*c*), are in this Act referred to as the Registration of Electors Acts, and together with this Act may be cited as the Registration of Electors Acts, 1843 to 1888.

This Act shall be construed as one with the Registration of Electors Acts.

2.—(1) For the purpose of the election of county authorities in England, the burgess qualification, that is to say, the qualification enacted by section nine of the Municipal Corporations Act, 1882 (*y*), shall extend to every part of a county not within the limits of a borough, and a person possessing in any part of a county outside the limits of a borough such burgess qualification, shall be entitled to be registered under this Act as a county elector in the parish in which the qualifying property is situate.

Extension of burgess franchise to county electors outside municipal boroughs.  
15 & 46 Vict.  
c. 50.  
P. 240.

(2) Sections nine (*y*), thirty-one (*a*), thirty-three (*a*), and sixty-three (*b*), of the Municipal Corporations Act, 1882, and any enactments of that or any other Act affecting the same, shall extend to so much of every county as is not comprised within the limits of a municipal borough in like manner as if they were herein re-enacted, with the substitution of "county" for "borough" and of "county elector" for "burgess," and with the other necessary modifications (*c*).

3. Every person who is entitled to be registered as a voter in respect of a ten pounds occupation qualification within the meaning of the provisions of the Registration Act, 1885, which are set out in the schedule to this Act, shall be entitled to be registered as a county elector, and to be enrolled as a burgess, in respect of such qualification, in like manner in all respects as if the sections of the Municipal Corporations Act, 1882, relating to a burgess qualification included the said ten pounds occupation qualification.

Occupation of land of the value of 10*l.* to qualify.  
P. 250.

4.—(1) The Registration of Electors Acts shall, so far as circumstances admit, apply to the enrolment of burgesses in a municipal borough to which the Parliamentary and Municipal Registration Act, 1878, does not apply (*d*), and to the registration of county electors within the meaning of this Act ; and the lists of burgesses, and of county electors, and of occupation voters for parliamentary elections, shall so far as

Registration of county electors.  
41 & 42 Vict.  
c. 26.

(*x*) See 48 & 49 Vict. c. 15, s. 19, *ante*, p. 538.

(*y*) *Ante*, p. 499.

(*a*) *Ante*, p. 503.

(*b*) *Ante*, p. 506.

(*c*) See also 54 & 55 Vict. c. 11.

(*d*) That is a municipal borough, no part of which is included in a parliamentary borough, or in what was a parliamentary borough before the Redistribution of Seats Act, 1885.

**Section 4.** practicable, be made out and revised together ; and the Registration of Electors Acts shall accordingly—

(a.) Apply to every such municipal borough in like manner as if it were a borough to which sub-section two of section six of the Registration Act, 1885 (*e*), applied (sub-section one of which section is hereby repealed), and revising assessors for such borough shall not be elected ; and

(b.) Apply to every parish not situate in a municipal borough in like manner as if such parish were a municipal borough to which the Parliamentary and Municipal Registration Act, 1878, applies, and the said lists of county electors and of occupation voters for parliamentary elections in such parish shall be made out in divisions, as provided in the said Act : Provided that a person whose name appears in any list of county electors or burgesses in a county may object to the name of any other person on a list of county electors or burgesses for a parish in that county, and may oppose the claim of a person to have his name inscribed in any such list.

(2) In the construction of the Registration of Electors Acts for the purpose of their application to a parish not situate in a municipal borough, there shall be made the variations following, and such other variations as may be necessary for carrying into effect the application, that is to say :—

(a.) Where such parish is not within a parliamentary borough, “parliamentary county” (*f*) shall be substituted for “parliamentary borough ;”

(b.) Where such parish is not within a parliamentary borough, the clerk of the peace shall perform the duties of and be substituted for the town clerk ; but any notice required to be given to the town clerk by section twenty-seven of the Parliamentary and Municipal Registration Act, 1878 (*g*) relating to the withdrawal and revival of objections, shall be given to the overseers and not to the clerk of the peace ;

(c.) County elector shall be substituted for burgess ;

(d.) Section nine of the Parliamentary and Municipal Registration Act, 1878 (*h*), shall not apply to any parish which is not wholly situate in an urban district (*i*) ;

(e.) Where such parish is not within a parliamentary borough, section twenty-one of the Parliamentary and Municipal Registration Act, 1878 (*k*), shall not apply, and the lists and register of voters shall be made out alphabetically, but shall be framed in parts for polling districts and electoral divisions and for urban districts and for wards of urban and rural districts in such a manner that the parts may be conveniently compiled or put together to serve as lists for polling districts, and elections in urban districts and as electoral division or ward lists (*l*) ;

P. 359.

(*e*) *Ante*, p. 533. (*f*) Defined by 48 & 49 Vict. c. 15, s. 19, *ante*, p. 538.

(*g*) *Ante*, p. 488.

(*h*) As to publication of notices and lists in post and telegraph offices, etc., *ante*, p. 482.

(*i*) Defined by s. 14, *post*.

(*k*) *Ante*, p. 486.

(*l*) These provisions with respect to the framing of the lists and register of voters in parts are extended to parishes situate within a parliamentary borough by 51 & 52 Vict. c. 41, s. 76 (1), *post*.



(f.) Where such parish is within a parliamentary borough— Section 4.

- (i.) The overseers shall send to the clerk of the peace for the county two copies of the lists of voters at the same time at which they send copies to the town clerk ; and
  - (ii.) The town clerk shall cause to be printed such number of copies of the revised lists as the clerk of the peace may require, and shall transmit the same to the clerk of the peace, who shall deal with the same as with other lists of county electors in his county ; but,
  - (iii.) Save as aforesaid, the clerk of the peace shall not act in relation to the registration of county electors in the said parish, and the town clerk of the parliamentary borough shall be the town clerk within the meaning of the Registration of Electors Acts and this Act in relation to such parish, and shall include in his precept to the overseers proper directions respecting the registration of the county electors within the meaning of this Act.
- (g.) The lists of occupation voters and county electors shall be revised by the revising barrister for the parliamentary borough or county in which such parish is situate, and the revising barrister for revising the county electors lists for the whole or any part of an electoral division of any county shall, if so required by the county council, hold a court in that electoral division or at some convenient place in a division adjoining thereto. P. 317.
- (h.) The guardians of a union which is not wholly comprised in an urban district may, with the consent of the overseers of any parish or parishes within their union for which an assistant overseer has not been appointed, annually appoint a fit person to act as registration officer for such parish or parishes, and may remove any such person, and fill up any vacancy caused by death, resignation or otherwise. Such registration officer shall perform all the duties of overseers of the parish or parishes for which he is appointed in respect of the registration of county electors and parliamentary voters, and the provisions of the Registration of Electors Acts relating to overseers, including those providing for penalties, shall apply to him accordingly : Pp. 287, 288.

Provided that his remuneration shall be fixed and paid by the guardians of the union, and charged on the poor rates of the parish or parishes for which he is appointed, and (if he acts for more than one parish) in proportion to the number of persons on the registers made during the year of his appointment of county electors and parliamentary voters for each parish.

(3) Notwithstanding anything in this Act contained, where a municipal borough or an urban district is co-extensive with any electoral division or divisions of a parliamentary county, the lists of voters may be directed by the county authority (*m*) to be made out according to the order in which the qualifying premises appear in the rate book, and section twenty-one of the Parliamentary and Municipal Registration

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(*m*) That is the county council ; see 51 & 52 Vict. c. 41, s. 76 (2).

**Section 4.** Act, 1878 (*n*), shall apply to such borough or urban district, and where lists of voters are so made out nothing in this Act shall require such part of the county register as consists of these lists to be arranged alphabetically.

Making out of lists and registers in metropolis.  
P. 359.

5. After the year one thousand eight hundred and eighty-eight, in every part of the metropolis, and in every part of a parliamentary borough, the whole or greater part of which is situate in the metropolis, the lists and registers of parliamentary voters, and of county electors, shall, unless the local authority otherwise direct, be arranged in the same order in which the qualifying premises appear in the rate book for the parish in which those premises are situate, or as nearly thereto as will cause those lists and registers to record the qualifying premises in successive order in the street or other place in which they are situate.

For the purpose of this section "metropolis" means the City of London and the parishes and places mentioned in Schedules (A.), (B.), and (C.) of the Metropolis Management Act, 1855.

18 & 19 Vict.  
c. 120.

Revision of electoral lists.  
Pp. 316, 328.

6.—(1) The lists of parliamentary voters, and of burgesses, and of county electors, shall be revised between the eighth day of September and the twelfth day of October, both inclusive, and shall be revised as soon as possible after the seventh day of September, and the eighth day of September shall be substituted in the Acts relating to the registration of parliamentary voters for the fifteenth day of September; and the declarations under section ten of the County Voters Registration Act, 1865 (*o*), and section twenty-four (*p*) of the Parliamentary and Municipal Registration Act, 1878, shall be sent to the clerk of the peace or town clerk on or before the fifth day of September.

28 & 29 Vict.  
c. 36.  
41 & 42 Vict.  
c. 26.

6 & 7 Vict. c. 18.  
P. 369.

(2) In sections sixty-two and sixty-three of the Parliamentary Voters Registration Act, 1843 (relating to appeals from revising barristers in England) (*q*) "the Michaelmas sittings of the High Court of Justice" shall be substituted for "the Michaelmas term," and forthwith after the fourth day of the Michaelmas sittings a court or courts shall sit for the purpose of hearing such appeals, and those appeals shall be heard and determined continuously and without delay, and any statement by the barrister for the purpose of any such appeal made in pursuance of section forty-two (*r*) of the said Act may be made at any time within ten days after the conclusion of the revision, so that it be made not less than four days before the first day of the said Michaelmas sittings, and the statement need not be read in open court, but shall be submitted to the appellant, who, if he approves the same, shall sign the same as directed by the said section, and return the same to the barrister.

Roll of county electors.  
Pp. 359, 363.

7.—(1) The clerk of the peace of every county shall make up a register of all persons registered as burgesses or county electors in the county, both for the county and for each electoral division into which the county is divided for the purpose of election of the county authority, and such number of copies as the clerk of the peace may require of the list of burgesses as revised shall be delivered by the town clerk to such clerk of the peace for the purpose of making up such register.

(2) The Registration of Electors Acts, and sections forty-five (*s*), forty-eight (*t*), and seventy-one (*u*) of the Municipal Corporations Act,

45 & 46 Vict.  
c. 50.  
P. 284.

(*n*) *Ante*, p. 486.  
(*o*) *Ante*, p. 442.  
(*p*) *Ante*, p. 487.

(*q*) *Ante*, p. 424.  
(*r*) *Ante*, p. 416.  
(*s*) *Ante*, p. 504.

(*t*) *Ante*, p. 505.  
(*u*) *Ante*, p. 506.

1882, shall apply, for the purposes of this section, with the substitution of clerk of the peace for town clerk, and of county register and division register for burgess roll and ward roll respectively, and of electoral division for ward, and of county fund for borough fund.

## Section 7.

(3) If district councils are established under any Act of the present session of Parliament (*w*), the clerk of every such council, not being the council of a borough, shall make up a register of all persons registered as county electors in his district, and where there are wards in a district, of all county electors in each ward, and he shall obtain from the clerk of the peace a sufficient number of copies of the lists of the county electors so registered as may be required for the purpose of making up such register and supplying the same to the public, and the above-mentioned Acts and sections shall apply for that purpose, with the substitution of "clerk of the district council" for "town clerk," and of "district register" for "burgess roll" respectively ;

(4) Provided that nothing in this section shall prevent a county elector from being registered in more than one division register.

(5) Where in pursuance of section four of the Registration Act, 1885 (*x*), the revising barrister has power to erase the name of any person as a parliamentary voter from division one of the occupiers' list, such barrister, in lieu of erasing the name, shall place an asterisk or other mark against the name (*y*), and, in printing such lists, the name shall be numbered consecutively with the other names, but an asterisk or other mark shall be printed against the name, and a person against whose name such asterisk or other mark is placed shall not be entitled to vote in respect of such entry at a parliamentary election, but shall have the same right of voting at an election of a county authority as he would have if no such mark were placed against his name.

48 & 49 Vict.  
c. 15.  
P. 339.

(6) If under any Act of the present session of Parliament establishing a council for a county (*z*) any portion of another county is added to that county for the purpose of such election, such portion of the county register as relates to the electors having qualifying property in the said part so added shall be deemed to be part of the county register of the county for which such council is elected, and the clerk of the peace and other officers shall take such steps as may be necessary for giving effect to these enactments.

8.—(1) All expenses properly incurred and all sums received in carrying into effect the provisions of this Act and the Registration of Electors Acts with respect to county electors,—

- (a) if incurred or received by overseers (*a*), shall be respectively paid and applied as expenses and receipts of overseers under the registration of Electors Acts in the case of the lists of parliamentary voters ; and
- (b) if incurred or received by the clerk of the peace or town clerk, shall be paid out of or into the county or borough fund ; and

P. 291.

P. 364.

(*w*) These councils were not established until the passing of the Local Government Act, 1894 (56 & 57 Vict. c. 73), *post*.

(*x*) *Ante*, p. 530.

(*y*) But see 56 & 57 Vict. c. 73, s. 44 (2).

(*z*) See 51 & 52 Vict. c. 41.

(*a*) See 6 & 7 Vict. c. 18, s. 57, *ante*, p. 423 ; 31 & 32 Vict. c. 58, ss. 31 and 32, *ante*, p. 459 ; 41 & 42 Vict. c. 26, s. 30, *ante*, p. 492.

**Section 8.**

charges made and charged by him for the trouble, care, and attention of such clerk in the performance of the services and duties imposed on him by the said provisions (*b*).

Remuneration  
of revising  
barristers and  
contribution by  
county  
authorities:  
P. 315.

9. Every barrister appointed to revise any list of voters under the Parliamentary Voters Registration Act, 1843, shall be paid the sum of two hundred and fifty guineas by way of remuneration to him, and in satisfaction of his travelling and other expenses, and every such barrister, after the termination of his last sitting, shall forward his appointment to the Commissioners of Her Majesty's Treasury, who shall make an order for the payment of the above sum to every such barrister.

49 & 50 Vict.  
c. 42.

The maximum amount to be paid to an additional barrister in pursuance of the Revising Barristers Act, 1886 (*c*), shall not exceed the amount authorized by this section to be paid to a revising barrister.

The sums so paid to a revising barrister or an assistant barrister shall be payable partly out of moneys provided by Parliament and partly by the county authorities, as hereinafter mentioned.

- (1) There shall be annually paid by the county authority of every county out of the county fund (*d*) into Her Majesty's Exchequer such sum as the Treasury certify to be one-half of the cost incurred for the payment of revising barristers at the then last revision of the lists of parliamentary electors, burgesses, and county electors in that county.
- (2) The Treasury shall yearly ascertain the total cost of the revising barristers appointed for all the counties and boroughs on any circuit, and shall divide one-half of such cost among the counties comprised in such circuit in proportion to the number of burgesses and county electors in each county, and certify the amount which under such apportionment is due under this section from each county. The Treasury may vary such certificate if they think fit, but unless it is so varied the certificate shall be final.
- (3) So much of any Act as requires a payment out of the borough fund of any borough to a revising barrister, in respect of the revision of the burgess lists, shall be repealed, without prejudice to any payment or liability previously made or incurred.

Perpetuation of  
49 & 50 Vict.  
c. 42.  
Repeal of  
6 & 7 Vict.  
c. 18, s. 59.  
Pp. 314, 316.

10.—(1) Section four of the Revising Barristers Act, 1886, is hereby repealed, and that Act, as amended by this Act, shall be perpetual.

(2) So long as a separate commission of assize is issued for the county of Surrey, that county shall be deemed to be a circuit within the meaning of section two, as well as of section one of the Revising Barristers Act, 1886 (*e*).

(3) An application to appoint an additional barrister under the said Act may be made at any time after the first day of September.

(4) Section fifty-nine of the Parliamentary Voters Registration Act, 1843, is hereby repealed.

(*b*) See 6 & 7 Vict. c. 18, ss. 53—55, *ante*, p. 422; 30 & 31 Vict. c. 102, s. 31, *ante*, p. 464; 41 & 42 Vict. c. 26, ss. 30 and 38, *ante*, pp. 492, 494; 48 & 49 Vict. c. 15, s. 8, *ante*, p. 534.

(*c*) *Ante*, p. 542.

(*d*) See 51 & 52 Vict. c. 41, s. 76 (4).

(*e*) *Ante*, p. 543. But see now 51 & 52 Vict. c. 41, s. 76 (4).



11.—(1) In the event of a county authority being established under any Act of the present session (*f*), the provisions of this Act with respect to county authority, county, and county fund shall refer to the said county authority and to the county and county fund of such authority, and in case of any borough which, for the purposes of the said Act, is a county of itself, to the council of the borough and to the borough and borough fund. **Section 11.**

Application of provisions of Act respecting county fund. p. 316.

(2) [*Providing for the event of a county authority not being established under any Act of the then present session.*]

12. A list of persons occupying property in a county, and residing within fifteen miles, but more than seven miles from the county, shall be made out in accordance with section forty-nine of the Municipal Corporations Act, 1882 (*g*), and that section shall apply as if it were herein re-enacted, with the substitution of “county” for “borough,” and of “county elector” for “burgess,” and of “clerk of the peace” for “town-clerk” (*h*). Separate list of persons residing within fifteen miles of county.

13. All precepts, notices, and forms required for the purposes of the Registration of Electors Acts shall be altered in such manner as may be declared by Her Majesty in Council to be necessary for carrying into effect this Act, and clerks of the peace and town clerks shall alter their precepts and forms accordingly (*i*). Precepts by clerk of the peace.

14. In this Act unless the context otherwise requires,— **Definitions.**

The expressions “urban district” and “rural district” respectively mean an urban or rural sanitary district, also any urban or rural district under any Act of the present session of Parliament (*j*).

The expression “clerk of the peace” means, in the event of the establishment of a county authority, the person acting as clerk of that authority, and such person shall act as clerk of the peace throughout the whole county of such authority, both for the purposes of this Act and of the Registration of Electors Acts; subject nevertheless— P. 231.

- (a) to the provisions of the Registration Act, 1885, respecting the case of any parliamentary county extending into more county quarter sessional areas than one, (*k*) and
- (b) to the proviso that where at the passing of this Act any clerk of the peace acts as clerk of the peace under the Registration of Electors Acts he shall continue so to act, but shall act as deputy of the person acting as clerk of the peace by virtue of this Act.

15. [*Transitory provisions for the year 1888.*]

(*f*) See 51 & 52 Vict. c. 41.

(*g*) *Ante*, p. 506.

(*h*) This section does not apply to any person occupying property within a municipal borough. (51 & 52 Vict. c. 41, s. 76 (6). Nor to the county of London. (*Ibid.* s. 77.)

(*i*) The remainder of this section related only to supplemental precepts in the year 1888. See 51 & 52 Vict. c. 41, s. 76 (7), and the Registration Order, 1895.

(*j*) See 51 & 52 Vict. c. 41.

(*k*) See 48 & 49 Vict. c. 15, s. 7 (3), *ante* p. 534.

## Schedule.

## SCHEDULE.

*Registration Act, 1885.*

## DEFINITION OF TEN POUNDS OCCUPATION QUALIFICATION.

Ten pounds  
occupation  
qualification.

A person entitled to be registered as a voter in respect of a ten pounds occupation qualification in a borough, municipal or parliamentary—

- (a) Must during the whole twelve months immediately preceding the fifteenth day of July have been an occupier as owner or tenant of some land or tenement in a parish [or township] of the clear yearly value of not less than ten pounds; and
- (b) Must have resided in or within seven miles of the borough during six months immediately preceding the fifteenth day of July; and
- (c) Such person, or some one else must during the said twelve months have been rated to all poor rates made in respect of such land or tenement; and
- (d) All sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the fifth day of January next before the registration, or on account of any assessed taxes due before the said fifth day of January, must have been paid on or before the twentieth day of July.

If two or more persons jointly are such occupiers as above mentioned, and the value of the land or tenement is such as to give ten pounds or more for each occupier, each of such occupiers is entitled to be registered as a voter.

If a person has occupied in the borough different lands or tenements of the requisite value in immediate succession during the said twelve months, he is entitled in respect of the occupation thereof to be registered as a voter in the parish [or township] in which the last occupied land or tenement is situate.

## LOCAL GOVERNMENT ACT, 1888.

(51 &amp; 52 VICT. CAP. 41.)

*An Act to amend the Laws relating to Local Government in England and Wales, and for other purposes connected therewith.*

[13th August, 1888.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

## PART I.

## COUNTY COUNCILS.

*Constitution of County Council.*

Establishment  
of county  
council.

1. A council shall be established in every administrative county (l) as defined by this Act, and be entrusted with the management of the administrative and financial business of that county, and shall consist of the chairman, aldermen, and councillors.

Composition and  
election of  
council and  
position of  
chairman.

2.—(1) The council of a county and the members thereof shall be constituted and elected and conduct their proceedings in like manner, and be in the like position in all respects, as the council of a borough

(l) See definition, s. 100, *post*, p. 564.

divided into wards, subject nevertheless to the provisions in this Act, **Section 2.**  
and in particular to the following provisions, that is to say :—

(2) As respects the aldermen or councillors—

- (a) clerks in holy orders and other ministers of religion shall not be disqualified for being elected and being aldermen or councillors ;
- (b) a person shall be qualified to be an alderman or councillor, who, though not qualified in manner provided by the Municipal Corporations Act, 1882, as applied by this Act, is a peer owning property in a county, or is registered as a parliamentary voter in respect of the ownership of property of whatsoever tenure situate in the county ; 45 & 46 Vict.  
c. 50.
- (c) the aldermen shall be called county aldermen, and the councillors shall be called county councillors ; and a county alderman shall not, as such, vote in the election of a county alderman ;
- (d) the county councillors shall be elected for a term of three years, and shall then retire together, and their places shall be filled by a new election ; and
- (e) the divisions of the county for the purpose of the election of county councillors shall be called electoral divisions, and not wards, and one county councillor only shall be elected for each electoral division : (m)

(3) As respects the number of the county councillors, and the boundaries of the electoral divisions in every county—

- (a) the number of the county councillors and their apportionment between each of the boroughs which have sufficient population to return one councillor and the rest of the county, shall be such as the Local Government Board may determine ; and
- (b) any borough returning one councillor only shall be an electoral division ; and
- (c) in the rest of the county the electoral divisions shall be such as in the case of a borough returning more than one councillor the council of the borough, and in the rest of the county the quarter sessions for the county, may determine, subject in either case to the directions enacted by this Act ; and in the case of elections after the first, to any alterations made, in accordance with the said directions, in manner in this Act mentioned :

(4) As respects the electors of the county councillors—

- the persons entitled to vote at their election shall be, in a borough, the burgesses enrolled in pursuance of the Municipal Corporations Act, 1882, and the Acts amending the same, and elsewhere the persons registered as county electors under the County Electors Act, 1888 : P. 239.  
45 & 46 Vict.  
c. 50.  
51 & 52 Vict.  
c. 10.

(5) As respects the chairman of the county council—

- (a) he shall be called chairman instead of mayor ; and

\* \* \* \* \*

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(m) In London the number of councillors is double the number of members which at the passing of the Act the parliamentary boroughs therein returned to Parliament. Sect. 40 (4).

## Section 2.

(6) The county council may from time to time appoint a member of the council to be vice-chairman, to hold office during the term of office of the chairman, and, subject to any rules made from time to time by the county council, anything authorized or required to be done by, to, or before the chairman may be done by, to, or before such vice-chairman.

*Powers of County Council.*

Transfer to  
county council  
of administra-  
tive business of  
quarter sessions.

3. There shall be transferred to the council of each county on and after the appointed day, the administrative business of the justices of the county in quarter sessions assembled, that is to say, all business done by the quarter sessions or any committee appointed by the quarter sessions, in respect of the several matters following, namely—

\* \* \* \* \*

(xii.) The division of the county into polling districts for the purposes of parliamentary elections (*n*), the appointment of places of election, the places of holding courts for the revision of the list of voters (*o*), and the costs of and other matters to be done for the registration of parliamentary voters.

\* \* \* \* \*

5.—(7) A person who holds the office of coroner shall not be qualified to be elected as a county alderman or county councillor for the county for which he is a coroner.

\* \* \* \* \*

## PART II.

## APPLICATION OF ACT TO BOROUGHs, THE METROPOLIS, AND CERTAIN SPECIAL COUNTIES.

*Application of Act to Boroughs.*

Certain large  
boroughs named  
in the schedule  
to be county  
boroughs.

31. Each of the boroughs named in the Third Schedule to this Act being a borough which on the first day of June one thousand eight hundred and eighty-eight, either had a population of not less than fifty thousand, or was a county of itself, shall, from and after the appointed day, be for the purposes of this Act an administrative county of itself, and is in this Act referred to as a county borough.

\* \* \* \* \*

Application of  
Act with  
modification to  
county  
boroughs.

34.—(3) The provisions of this Act with respect to—

(a.) The constitution, election, proceedings, or position of the county council or the chairman thereof, shall not apply to county boroughs.

(6) Nothing in this Act shall transfer to the council of any borough any power in relation to the division of the county into polling districts for the purpose of a parliamentary election for the county (*o*), the appointment of places of election for the county, the places of holding courts for the revision of the lists of voters, and the costs of, and other matters to be done for, the registration of parliamentary voters for the county.

\* \* \* \* \*

(*n*) See 30 & 31 Vict. c. 102, s. 34, *ante*, p. 452; 31 & 32 Vict. c. 58, s. 18, *ante*, p. 457; 35 & 36 Vict. c. 33, s. 5, *ante*, p. 472; 46 & 47 Vict. c. 51, s. 47; 48 & 49 Vict. c. 15, s. 4 (4), *ante*, p. 531.

(*o*) See 30 & 31 Vict. c. 102, s. 34, *ante*, p. 452; 48 & 49 Vict. c. 15, s. 4 (4), *ante*, p. 531.



*Application of Act to Metropolis.***Section 40.**

40. In the application of this Act to the Metropolis (*p*), the following provisions shall have effect :—

Application of  
Act to Metro-  
polis as county  
of London.

- (1) The Metropolis shall, on and after the appointed day, be an administrative county for the purposes of this Act by the name of the administrative county of London.
- (2) Such portion of the administrative county of London as forms part of the counties of Middlesex, Surrey, and Kent, shall on and after the appointed day be severed from those counties, and form a separate county for non-administrative purposes by the name of the county of London : . . . .

\* \* \* \* \*

*Application of Act to Special Counties and to Liberties.*

46. For the purposes of this Act there shall be enacted the provisions following ; that is to say,

Application of  
Act to certain  
special counties.

- (1) (a.) The ridings of Yorkshire and the divisions (*p*) of Lincolnshire shall respectively be separate administrative counties.
- (b.) The eastern and western divisions of Sussex, under the County of Sussex Act, 1865, and the eastern and western divisions of Suffolk, shall respectively be separate administrative counties for the purposes of this Act.
- (c.) The Isle of Ely, and the residue of the county of Cambridge, shall be respectively separate administrative counties for the purposes of this Act, and are in this Act referred to as divisions of the county of Cambridge.
- (d.) The soke of Peterborough and the residue of the county of Northampton shall be respectively separate administrative counties for the purposes of this Act, and are in this Act referred to as divisions of the county of Northampton.

28 & 29 Vict.  
c. 37.

\* \* \* \* \*

**PART III.***Boundaries.*

50.—(1) The first council elected under this Act for any administrative county shall, subject as hereinafter mentioned, be elected for the county at large as bounded at the passing of this Act for the purpose of the election of members to serve in Parliament for the county : Provided always that—

Boundary of  
county for  
first election.

- (a) this enactment shall not apply to the boundary between two administrative counties which are portions of one entire county (*p*), and in case of those administrative counties, the boundary between the portions, as existing for the purposes of county rate, shall, subject to any change made by or in pursuance of this Act, be the boundary of the administrative county for which the council is elected ; and,
- (b) where any urban sanitary district is situate partly within and partly without the boundary of such county, the district shall be deemed to be within that county which contains the largest portion of the population of the district, according to the census of one thousand eight hundred and eighty-one.

**Section 50.**

(c) Where any portion of an administrative county has before the passing of this Act been transferred to another administrative county for the purposes of the Acts relating to the police or Contagious Diseases (Animals) or otherwise, nothing in this Act shall affect such transfer.

(d) The wapentake of the ainsty of York (except so much as is included in the municipal borough of York as extended by the York Extension and Improvement Act, 1884) shall for all purposes of this Act be deemed to be part of the west riding of the county of York.

(2) The county council elected under this Act shall have for the purposes of this Act authority throughout the administrative county for which it is elected, and the administrative county as bounded for the purpose of the election shall, subject to alterations made in manner hereinafter mentioned, be for all the purposes of this Act the county of such county council.

(3) If any difference arises as to the county which contains the largest portion of the population of any such district as above in this section mentioned, such difference shall be referred to the Local Government Board, whose decision shall be final.

(4) This section applies to an administrative county within the meaning of this Act, save that it shall not apply to the administrative county of London, nor to any county borough, and any place which, though forming part of any such borough for the purposes of the election of members to serve in Parliament, is not within the municipal boundary of such borough shall, notwithstanding anything in the foregoing provisions of this section, form, for the purposes of this section, part of the county in which such place is situate.

Directions for  
constitution of  
electoral  
divisions.

**51.** In the constitution of electoral divisions of a county, whether for the first election or for subsequent elections, the following directions shall be observed—

- (1) The divisions shall be arranged with a view to the population of each division being, so nearly as conveniently may be, equal, regard being had to a proper representation both of the rural and of the urban population, and to the distribution and pursuits of such population, and to area, and to the last published census for the time being, and to evidence of any considerable change of population since such census ;
- (2) Electoral divisions shall, so far as may be reasonably practicable, be framed so that every division shall be a county district or ward, or a combination of county districts or wards, or be comprised in one county district or ward, but where an electoral division is a portion of a county district or ward, and such portion has not a defined area for which a separate list or part of a list of voters is made under the Acts relating to the registration of electors, such portion shall, until a new register of electors is made, continue to be part of the district or ward of which it has been treated as being part in the then current register of electors ;
- (3) Whenever under the provisions of this section a county district is divided into two or more portions, every such portion shall, as far as possible, consist of an entire parish or of a combination of entire parishes ;

- (4) In determining the electoral divisions for the first election, the foregoing provisions shall apply as if, where a rural sanitary district is situate in more than one county, each portion of the district which is situate in the same county were a county district, and any such portion may be combined with a county district, or portion of a county district, although not adjoining.

Section 53.

\* \* \* \* \*

54.—(1) Whenever it is represented by the council of any county or borough to the Local Government Board—

Future alterations of boundaries.

- (a) That the alteration of the boundary of any county or borough is desirable; or
- (b) that the union, for all or any of the purposes of this Act, of a county borough with a county is desirable; or
- (c) that the union, for all or any of the purposes of this Act, of any counties or boroughs or the division of any county is desirable; or
- (d) that it is desirable to constitute any borough having a population of not less than fifty thousand into a county borough; or
- (e) that the alteration of the boundary of any electoral division of a county, or of the number of county councillors and electoral divisions in a county is desirable; or
- (f) that the alteration of any area of local government partly situate in their county or borough, is desirable,

the Local Government Board shall, unless for special reasons they think that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as they may deem expedient, or may refuse such order, and if they make the order, may by such order divide or alter any electoral division.

(2) Provided that in default of such representation by the council of any county or borough before the first day of November one thousand eight hundred and eighty-nine, the Local Government Board may cause such local inquiry to be made, and thereupon may make such order as they may deem expedient.

(3) Provided that if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of any county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(4) Where such order alters the boundaries of a borough, it may, as consequential upon such alteration, do all or any of the following things, increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case, make the proportionate alteration in the number of aldermen.

(5) At any time before the appointed day, the Local Government Board may make an order in pursuance of this section without any such representation as in this section mentioned.

55.—(1) Where the Local Government Board make a provisional order for uniting two county boroughs, such order may make them one borough and one county for the purposes of this Act.

Contents of provisional order amalgamating two county boroughs.

(2) Such order, and also any other order under this Act for uniting boroughs, whether county boroughs or not, may also contain such provisions as may seem necessary or proper for regulating the division of

**Section 55.** the combined borough into wards, the number of councillors to be elected for each ward, and the first election of the council of the combined borough, and for providing for the clerks of the peace, coroners, town clerks, and officers of the boroughs, and the application to them of the provisions of this Act as to existing officers, and for providing for all matters incidental to or consequential on the union of the boroughs.

(3) When any such provisional order is confirmed, it shall be lawful for Her Majesty to grant a commission of the peace and court of quarter sessions to the combined borough in like manner as to any other borough under the Municipal Corporations Act, 1882, and the provisional order may contain such provisions as appear necessary or proper for regulating all matters incidental to such grant, and to the changes caused by the union of the boroughs in matters connected with such commission or court or otherwise with the administration of justice.

\* \* \* \* \*

**57.—**(1) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things ; that is to say—

- (a) The alteration or definition of the boundary thereof ;
- (b) The division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish ;
- (c) The conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts ;
- (d) The division of an urban district into wards ; and
- (e) The alteration of the number of wards, or of the boundaries or any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

(3) In any other case the order shall be submitted to the Local Government Board ; and if within three months (*q*) after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition

Future alteration of county districts and parishes and wards and future establishment of urban districts.

(*q*) Six weeks ; 56 & 57 Vict. c. 63, s. 41.



the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not. **Section 57.**

(4) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5) The Local Government Board, on confirming an order, may make such modification therein as they consider necessary for carrying into effect the objects of the order.

(6) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

(7) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.

\* \* \* \* \*

**59.**—(1) A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the scheme or order as may seem expedient. Supplemental provisions as to alteration of areas.

(2) A place which is part of an administrative county for the purposes of this Act shall, subject as in this Act mentioned, form part of that county for all purposes, whether sheriff, lieutenant, custos rotulorum, justices, militia, coroner, or other; Provided that—

- (a) notwithstanding this enactment, each of the entire counties of York, Lincoln, Sussex, Suffolk, Northampton, and Cambridge shall continue to be one county for the said purposes so far as it is one county at the passing of this Act; and
- (b) this enactment shall not affect the existing powers or privileges of any city or borough as respects the sheriff, lieutenant, militia, justices, or coroner; but if any county borough is, at the passing of this Act, a part of any county for any of the above purposes, nothing in this Act shall prevent the same from continuing to be part of that county for that purpose; and
- (c) this enactment shall not affect parliamentary elections nor the right to vote at the election of a member to serve in Parliament, nor land tax, tithes, or tithe rentcharge, nor the area within which any bishop, parson, or other ecclesiastical person has any cure of souls or jurisdiction.

(3) For the purposes of parliamentary elections, and of the registration of voters for such elections, the sheriff, clerk of the peace, and council of the county in which any place is comprised at the passing of this Act for the purpose of parliamentary elections shall, save as otherwise provided by the scheme or order, or by the County Electors Act, 1888, or this Act, continue to have the same powers, duties, and liabilities as they would have had if no alteration of boundary had taken place.

51 & 52 Vict. c. 10.

(4) Any scheme or order made in pursuance of this Act may, so far as may seem necessary or proper for the purposes of the scheme or order, provide for all or any of the following matters, that is to say,—

- (a) may provide for the abolition, restriction, or establishment, or extension of the jurisdiction of any local authority in or over any part of the area affected by the scheme or order, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities,

## Section 59.

quarter sessions, justices of the peace, coroners, sheriff, lieutenant, custos rotulorum, clerk of the peace, and other officer therein, and with the costs of any such authorities, sessions, persons, or officers as aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area, and may extend to any altered area the provisions of any local Act which were previously in force in a portion of the area ; and

- (b) may make temporary provision for meeting the debts and liabilities of the various authorities affected by the scheme or order, for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the scheme or order, and applying to them the provisions of this Act as to existing officers ; and
- (c) may provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the scheme or order, and for determining questions arising from such transfer ; and
- (d) may provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the scheme or order ; and
- (e) may adjust any property, debts, and liabilities affected by the scheme or order.

(5) Where an alteration of boundaries of a county is made by this Act an order for any of the above-mentioned matters may, if it appears to the Local Government Board desirable, be made by that Board, but such order, if petitioned against by any council, sessions, or local authority affected thereby, within three months after notice of such order is given in accordance with this Act, shall be provisional only, unless the petition is withdrawn or the order is confirmed by Parliament.

(6) A scheme or order may be made for amending any scheme or order previously made in pursuance of this Act, and may be made by the same authority and after the same procedure as the original scheme or order. Where a provision of this Act respecting a scheme or order requires the scheme or order to be laid before Parliament, or to be confirmed by Parliament, either in every case or if it is petitioned against, such scheme or order may amend any local and personal Act.

\* \* \* \* \*

## PART V. SUPPLEMENTAL.

\* \* \* \* \*

Amendment of  
51 & 52 Vict.  
c. 10.

**76.**—(1) The provisions of section four of the County Electors Act, 1888 (s), with respect to the framing of the lists and register of voters in parts shall extend to parishes situate within a parliamentary borough.

(2) In the provisions of section four of the said Act with respect to making out the lists of voters according to the order in which the qualifying premises appear in the rate book, the county authority shall mean the county council.

(3) The names of the parliamentary electors and county electors in the lists in each polling district may be numbered consecutively, and such portion of those lists as consists of the names of parliamentary electors may be taken to form the register for the purpose of parliamentary elections (i), and such portion of those lists as contains the names of county electors may be taken to form the register of county electors.

(s) *Ante*, p. 547.

(i) See 6 & 7 Vict. c. 18, s. 47, *ante*, p. 419.

(4) For the purpose of the provisions of the Acts relating to the **Section 76.**  
 appointment of revising barristers (*u*), and of section nine of the County  
 Electors Act, 1888 (*x*), the county of Surrey and such portion of the P. 314.  
 county of London as is situate south of the Thames shall be deemed to  
 be separate counties forming part of the south-eastern circuit; and such  
 portion of the administrative county of London as is situate north of  
 the Thames shall be deemed to form part of the county of Middlesex;  
 and the county of Middlesex, inclusive of that portion, shall be deemed  
 to be a separate county on a circuit; but any sum payable by the  
 London county council in respect of either of the said portions of the  
 county, shall be paid as for a general county purpose.

(5) [*Temporary provisions for 1888 only.*]

(6) It is hereby declared that nothing in section twelve (*y*) of the County 51 & 52 Vict.  
 Electors Act, 1888, applies to any person occupying property within a c. 10.  
 borough.

(7) It shall be lawful for Her Majesty the Queen, by Order in Council,  
 from time to time, to alter the instructions, precepts, notices, and forms  
 under the Registration of Electors Acts, in such manner as appears to  
 Her Majesty necessary for carrying into effect this Act and the County  
 Electors Act, 1888, and any other Act for the time being in force  
 amending or affecting the Acts mentioned in this sub-section, and the  
 instructions, precepts, notices, and forms specified in any such Order in  
 Council shall be observed and be valid in law, and clerks of the peace,  
 and town clerks, and other officers shall act accordingly (*z*).

(8) [*Temporary provisions for 1888 only.*]

77. A person who is entitled to be registered as a county elector in  
 respect of any qualification in the administrative county of London,  
 in all respects except that of residence, and is resident beyond seven  
 miles but within fifteen miles of the county, shall be entitled to be  
 registered as a county elector. Residential  
 qualification of  
 county electors  
 in administra-  
 tive county of  
 London.  
 P. 246,

\* \* \* \* \*

#### Officers.

83. Subject to the provisions of this Act for the protection of clerks  
 of the peace holding office at the passing of this Act, the following  
 provisions shall have effect:— Clerk of the  
 peace and of  
 county council.  
 P. 281.

(1) The clerk of the peace of a county, besides acting as clerk of the  
 peace of that county, shall also (subject to the provisions of  
 this Act as respects particular counties) be the clerk of the  
 county council, and in that capacity is referred to in this Act  
 as the clerk of the county council.

\* \* \* \* \*

(6) The clerk of the peace, when acting in relation to any business of  
 the county council, and when acting under the Acts relating  
 to the registration of parliamentary voters, . . . . . or to  
 any registration matters, shall act under the direction of the  
 county council, and all enactments relating to such business  
 and registration . . . . . shall be construed as if clerk of  
 the county council were therein substituted for clerk of the  
 peace.

\* \* \* \* \*

(*u*) 6 & 7 Vict. c. 18, s. 28, *ante*, p. 410; 31 & 32 Vict. c. 58, s. 25, *ante*,  
 p. 458; 36 & 37 Vict. c. 70, *ante*, p. 474; 37 & 38 Vict. c. 53, *ante*, p. 476;  
 49 & 50 Vict. c. 42, *ante*, p. 542. (*x*) *Ante*, p. 552.

(*y*) *Ante*, p. 553.

(*z*) See the Registration Order, 1895.

## Section 92.

Saving for votes at any Parliamentary elections.

92.—(1) Nothing in this Act, nor anything done in pursuance of this Act, shall alter the limits of any parliamentary borough or parliamentary county, or the right of any person to be registered as a voter at any parliamentary election.

(2) Where by virtue of the provisions of this Act with respect to the county of London, or to urban sanitary districts situate partly within and partly without the boundary of a county, a place situate in a parliamentary county becomes part of the county of a council other than the council having authority over the largest part of the parliamentary county, that is to say, the part which contains the largest number of occupation voters, then, for the purpose of making out and revising the lists of voters, of conducting any parliamentary election, of polling districts, and assigning polling places, and for all purposes of and incidental to such matters, including the payment of expenses, such place shall be deemed to be part of the same county as the said largest part of the said parliamentary county, and the sheriff, council, clerk of the peace, authorities, and officers of that county shall have authority accordingly in the said place, and the provisions of the Registration Act, 1885, with respect to parliamentary counties extending into more county quarter sessional areas than one, shall apply with the necessary modifications.

(3) Provided that the clerk of the peace who receives from the revising barrister the lists of voters in any such place shall supply to any other clerk of the peace or other officer such number of revised lists as he may require for the purpose of making up a register of county electors.

\* \* \* \* \*

*Definitions.*

Interpretation of certain terms in the Act.

100. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say:

The expression "county" does not include a county of a city or county of a town:

The expression "entire county" means, in the case of a county divided into administrative counties, the whole of the county formed by those administrative counties.

The expression "division of a county" in the provisions of this Act respecting the property of quarter sessions, includes any hundred, lathe, wapentake, or other like division:

The expression "administrative county" means the area for which a county council is elected in pursuance of this Act, but does not (except where expressly mentioned) include a county borough;

The expression "metropolis" means the city of London and the parishes and places mentioned in Schedules A., B., and C. to the Metropolis Management Act, 1855, as amended by subsequent Acts:

The expression "borough" means any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city:

The expression "parish" means a place for which a separate overseer is or can be appointed, and where part of a parish is situate within, and part of it without, any county, borough, urban sanitary district, or other area, means each such part:

48 & 49 Vict.  
c. 15.

18 & 19 Vict.  
c. 120.

45 & 46 Vict.  
c. 50.



- The expressions "parliamentary county" and "parliamentary election," and "parliamentary voters," have the same meaning as in the Registration Act, 1885 (*a*), and the Acts therein referred to : Section 100.  
18 & 19 Vict.  
c. 15.
- The expression "existing" means existing at the time specified in the enactment in which the expression is used, and if no such time is expressed, then at the day appointed to be for the purpose of such enactment the appointed day :
- The expressions "district council" and "county district" mean respectively any district council established for purposes of local government under an Act of any future session of Parliament (*b*), and the district under the management of such council, and until such council is established, mean respectively—
- (a) as regards the provisions of this Act relating to highways and main roads, a highway authority and highway area; and
  - (b) save as aforesaid, an urban or rural sanitary authority within the meaning of the Public Health Act, 1875, 38 & 39 Vict.  
c. 55.
- The expression "highway area" means, as the case may require, an urban sanitary district, a highway district, or a highway parish not included within any highway or urban sanitary district :
- The expression "highway authority" means, as respects an urban sanitary district, the urban sanitary authority, and as respects a highway district, the highway board, or authority having the powers of a highway board, and as respects a highway parish, the surveyor or surveyors of highways or other officers performing similar duties :
- The expression "urban authority" means, until the establishment of district councils as aforesaid, an urban sanitary authority ; and after their establishment, the district council of an urban county district :
- The expression "rural authority" means, until the establishment of district councils as aforesaid, a rural sanitary authority ; and, after their establishment, the district council of a rural county district :
- The expression "person" includes any body of persons whether corporate or unincorporate :
- The expression "property" includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents :
- The expression "powers" includes rights, jurisdiction, capacities, privileges, and immunities :
- The expression "duties" includes responsibilities and obligations :
- The expression "liabilities" includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose :
- The expression "powers, duties, and liabilities," includes all powers, duties, and liabilities conferred or imposed by or arising under any local and personal Act :

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(a) See 48 & 49 Vict. c. 15, s. 19, *ante*, p. 538.

(b) See 56 & 57 Vict. c. 63, s. 21 (3).

**Section 100.**

The expression "expenses" includes costs and charges :

The expression "costs" includes charges and expenses :

The expression "office" includes any place, situation, or employment, and the expression "officer" shall be construed accordingly :

The expression "the divisions of Lincolnshire" means the parts of Holland, the parts of Kesteven, and the parts of Lindsey.

Extent of Act.

101. This Act shall not extend to Scotland or Ireland.

Short title.

102. This Act may be cited as the Local Government Act, 1888.

\* \* \* \* \*

Sections 31, 34,  
35, 36, 69.

**THIRD SCHEDULE.****COUNTY BOROUGH.**

Name of Borough.	Name of County in which, for the purpose of this Act, the Borough is deemed to be situate.
Barrow - - - - -	Lancaster.
Bath - - - - -	Somerset.
Birkenhead - - - - -	Chester.
Birmingham - - - - -	Warwick.
Blackburn - - - - -	Lancaster.
Bolton - - - - -	Lancaster.
Bootle cum Linacre - - - - -	Lancaster.
Bradford - - - - -	York, West Riding.
Brighton - - - - -	Sussex.
Bristol - - - - -	Gloucester and Somerset.
Burnley - - - - -	Lancaster.
Bury - - - - -	Lancaster.
Canterbury - - - - -	Kent.
Cardiff - - - - -	Glamorgan.
Chester - - - - -	Chester.
Coventry - - - - -	Warwick.
Croydon - - - - -	Surrey.
Derby - - - - -	Derby.
Devonport - - - - -	Devon.
Dudley - - - - -	Worcester.
Exeter - - - - -	Devon.
Gateshead - - - - -	Durham.
Gloucester - - - - -	Gloucester.
Great Yarmouth - - - - -	Norfolk and Suffolk.
Halifax - - - - -	York, West Riding.
Hanley - - - - -	Stafford.
Hastings - - - - -	Sussex.
Huddersfield - - - - -	York, West Riding.
Ipswich - - - - -	Suffolk.
Kingston-upon-Hull - - - - -	York, East Riding.
Leeds - - - - -	York, West Riding.
Leicester - - - - -	Leicester.
Lincoln - - - - -	Lincoln (parts of Lindsey).
Liverpool - - - - -	Lancaster.
Manchester - - - - -	Lancaster.
Middlesbrough - - - - -	York, North Riding.
Newcastle-upon-Tyne - - - - -	Northumberland.
Northampton - - - - -	Northampton.
Norwich - - - - -	Norfolk.
Nottingham - - - - -	Nottingham.
Oldham - - - - -	Lancaster.
Plymouth - - - - -	Devon.

THIRD SCHEDULE—*continued.*

## Sched. 3.

Name of Borough.	Name of County in which, for the purpose of this Act, the Borough is deemed to be situate.
Portsmouth - - - - -	Hants.
Preston - - - - -	Lancaster.
Reading - - - - -	Berks. - - -
Rochdale - - - - -	Lancaster.
Saint Helen's - - - - -	Lancaster.
Salford - - - - -	Lancaster.
Sheffield - - - - -	York, West Riding.
Southampton - - - - -	Hants.
South Shields - - - - -	Durham.
Stockport - - - - -	Chester and Lancaster.
Sunderland - - - - -	Durham.
Swansea - - - - -	Glamorgan.
Walsall - - - - -	Stafford.
West Bromwich - - - - -	Stafford.
West Ham - - - - -	Essex.
Wigan - - - - -	Lancaster.
Wolverhampton - - - - -	Stafford.
Worcester - - - - -	Worcester.
York - - - - -	York, North, East, and West Ridings.

## PUBLIC BODIES CORRUPT PRACTICES ACT, 1889.

(52 &amp; 53 VICT. CAP. 69.)

*An Act for the more effectual Prevention and Punishment of Bribery and Corruption of and by Members, Officers, or Servants of Corporations, Councils, Boards, Commissions, or other Public Bodies.*

[30th August 1889.]

WHEREAS it is expedient more effectually to provide for the prevention and punishment of bribery and corruption of and by members, officers, and servants of corporations, councils, boards, commissions, and other public bodies :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. [*Corruption in office a misdemeanor.*]

2. Any person on conviction for offending as aforesaid shall, at the discretion of the court before which he is convicted,—

Penalty for offences,  
P. 270.

(c) be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction ; and

(d) in the event of a second conviction for a like offence he shall, in addition to the foregoing penalties, be liable to be adjudged to be for ever incapable of holding any public office, and to be incapable for seven years of being registered as an elector, or voting at an election either of members to serve in Parliament or of members of any public body, and the enactments for preventing the voting and registration of persons declared by

**Section 6.**

reason of corrupt practices to be incapable of voting shall apply to a person adjudged in pursuance of this section to be incapable of voting :

\*                      \*                      \*                      \*                      \*

Interpretation.

7. In this Act—

The expression “public body” means any council of a county or county of a city or town, any council of a municipal borough, also any board, commissioners, select vestry, or other body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law or otherwise to administer money raised by rates in pursuance of any public general Act, but does not include any public body as above defined existing elsewhere than in the United Kingdom :

The expression “public office” means any office or employment of a person as a member, officer, or servant of such public body :

The expression “person” includes a body of persons, corporate or unincorporate :

\*                      \*                      \*                      \*                      \*

Short title.

10. This Act may be cited as the Public Bodies Corrupt Practices Act, 1889.

## ELECTORAL DISABILITIES REMOVAL ACT, 1891.

(54 & 55 VICT. CAP. 11.)

*An Act to remove certain Disabilities of Persons by reason of absence to be registered as Voters at Parliamentary and Local Elections.*

[11th May, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as the Electoral Disabilities Removal Act, 1891.

2. A person shall not be disqualified from being registered—

(a) in the Parliamentary register of electors (b) for a county or borough in respect of his inhabitant occupation of a dwelling-house or lodgings or his occupation of any land or tenement ; or

(b) in the local government register of electors (b) for a county or borough in respect of his occupation of any house, warehouse, counting-house, shop, building, land, or tenement,

by reason only that during part of the qualifying period not exceeding four months at any one time, he has in the performance of any duty arising from or incidental to any office, service, or employment held or undertaken by him been absent from his dwelling-house or lodgings, or not resided in or within the required distance from such county or borough.

Temporary absence of person in performance of duty not to disqualify as elector.

Pp. 194, 233, 246.

## REGISTRATION OF ELECTORS ACT, 1891.

(54 & 55 VICT. CAP. 18.)

*An Act for the removal of Doubts arising under the Registration of Electors Acts.*

[11th June, 1891.]

41 & 42 Vict.  
c. 26.

WHEREAS under section thirty (c) of the Parliamentary and Municipal Registration Act, 1878, one half of the expenses and receipts under the

(b) Defined, 52 & 53 Vict. c. 63, s. 17.

(c) *Ante*, p. 492.



Registration of Electors Acts in respect of an area common to a parliamentary borough and a municipal borough are defrayed and applied in accordance with the Parliamentary Registration Acts, and one half are paid out of and to the borough fund :

## Section 1

And whereas by section four (*d*) of the County Electors Act, 1888, the said Act, together with other Registration of Electors Acts, is applied to a parish not situate in a municipal borough with the substitution of "parish" for "municipal borough" : 51 & 52 Vict. c. 10.

And whereas doubts have arisen whether, having regard to the provisions of section eight (*e*) of the said Act, the provisions of section thirty of the Parliamentary and Municipal Registration Act, 1878, were applied by virtue of the above-recited enactment, and it is expedient to remove such doubts :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Registration of Electors Act, 1891, and shall be construed as one with the Registration of Electors Acts, 1843 to 1888, which Acts, together with this Act, may be cited as the Registration of Electors Acts, 1843 to 1891. Short title and construction.

2. Where a parish is situate in a parliamentary but not in a municipal borough, one half of the expenses and receipts under the Registration Acts, 1843 to 1888, in respect of such parish, shall, as from the passing of the County Electors Act, 1888, be defrayed out of and paid to the county fund, and the other half of such expenses shall be defrayed out of and paid to the rate raised in such parish for the relief of the poor. The revising barrister shall as part of the business of the revision, if necessary, determine what expenses and receipts are incurred, or arise, or have been incurred, or have arisen under the said Acts in respect of such parish. Application of 41 & 42 Vict. c. 26, s. 30, to expenses in a parish situate in a parliamentary and not in a municipal borough. P. 291.

## COUNTY COUNCILS (ELECTIONS) ACT, 1891.

(54 & 55 VICT. CAP. 68.)

*An Act to alter the Date of holding County Council Elections, and to remove Doubts respecting the holding of such Elections.*

[5th August, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

\* \* \* \* \*

2.—(1) The county register shall be completed before the twentieth day of December in every year, and come into operation on the next first day of January. County registers. P. 362.

(2) The burgess lists forming the burgess roll, which comes into operation on the first day of November in every year, shall on and after that day until the next first day of January form part of the county register in substitution for the former burgess lists.

\* \* \* \* \*

8. This Act may be cited as the County Councils (Elections) Act, 1891, and shall be construed as one with the Local Government Act, 1888. Short title and construction.

Section 80.

PUBLIC HEALTH (LONDON) ACT, 1891.

(54 & 55 VICT. CAP. 76.)

*An Act to consolidate and amend the Laws relating to Public Health in London.* [5th August, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

\* \* \* \* \*

*Hospitals.*

Reception of non-pauper fever and small-pox patients into hospital in metropolitan district.

P. 274.

80.—(1) The Metropolitan Asylum managers, subject to such regulations and restrictions as the Local Government Board prescribe, may admit any person, who is not a pauper, and is reasonably believed to be suffering from fever or small-pox or diphtheria, into a hospital provided by the managers.

(2) The expenses incurred by the managers for the maintenance of any such person shall be paid by the board of guardians of the poor law union from which he is received.

(3) The said expenses shall be repaid to the board of guardians out of the Metropolitan Common Poor Fund.

(4) The admission of a person suffering from an infectious disease into any hospital provided by the Metropolitan Asylum Managers, or the maintenance of any such person therein, shall not be considered to be parochial relief, alms, or charitable allowance to any person, or to the parent or husband of any person ; nor shall any person or his or her parent or husband be by reason thereof deprived of any right or privilege, or be subjected to any disability or disqualification.

\* \* \* \* \*

*Interpretation.*

Interpretation of terms.

141. In this Act, unless the context otherwise requires,

\* \* \* \* \*

The expression "hospital" means any premises or vessels for the reception of the sick, whether permanently or temporarily applied for that purpose, and includes an asylum of the Metropolitan Asylum Managers :

\* \* \* \* \*

Short title.

144. This Act may be cited as the Public Health (London) Act, 1891.

POLICE DISABILITIES REMOVAL ACT, 1893.

(56 & 57 VICT. CAP. 6.)

*An Act to remove Disabilities of Policemen with regard to their Vote in Municipal, School Board, and other Elections.* [12th May, 1893.]

WHEREAS it is expedient that the Police Disabilities Removal Act, 1887, whereby the disabilities of persons employed in or in connexion with the police to vote at parliamentary elections were removed, should be extended to municipal and other similar elections :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Repeal.

1. The enactments mentioned in the schedule to this Act, which disqualify the police for voting at municipal and other elections, are hereby

repealed to the extent mentioned in the third column of the said **Section 1.**  
schedule.

2. [*Facilities for polling under 50 & 51 Vict. c. 9, s. 2, to apply to all elections.*]

3. This Act and the Police Disabilities Removal Act, 1887, shall be construed as one Act. Construction and short title

This Act may be cited as the Police Disabilities Removal Act, 1893.

### SCHEDULE.

Session and Chapter.	Short Title.	Extent of Repeal.
19 & 20 Vict. c. 69.	The County and Borough Police Act, 1856.	Section nine, the words "be capable of giving his vote for the election of any person to any municipal office in such borough;" and also the words "nor shall any such constable."
22 & 23 Vict. c. 32.	The County and Borough Police Act, 1859.	Section three, the words "be capable of giving his vote for the election of any person to any municipal office in any borough within such county or in any other borough in which such constable has authority, nor shall any such constable."

## LOCAL GOVERNMENT ACT, 1894.

(56 & 57 VICT. CAP. 73.)

*An Act to make further provision for Local Government in England and Wales.* [5th March, 1894.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

### PART I.

#### PARISH MEETINGS AND PARISH COUNCILS.

##### *Constitution of Parish Meetings and Parish Councils.*

1.—(1) There shall be a parish meeting for every rural parish, and there shall be a parish council for every rural parish which has a population of three hundred or upwards : Provided that an order of the county council in pursuance of Part III. of this Act— Constitution of parish meetings and establishment of parish councils.

(a) shall, if the parish meeting of a rural parish having a population of one hundred or upwards so resolve, provide for establishing a parish council in the parish, and may, with the consent of the parish meeting of any rural parish having a population of less than one hundred, provide for establishing a parish council in the parish ; and

(b) may provide for grouping a parish with some neighbouring parish or parishes under a common parish council, but with a separate parish meeting for every parish so grouped, so, however, that no parish shall be grouped without the consent of the parish meeting for that parish.

(2) For the purposes of this Act every parish in a rural sanitary district shall be a rural parish.

**Section 1.**39 & 40 Vict.  
c. 61.Parish meetings.  
Pp. 239, 252.Constitution of  
parish council.

Parish wards.

(3) Where a parish is at the passing of this Act situate partly within and partly without a rural sanitary district, the part of the parish which is within the district, and the part which is without, shall as from the appointed day, but subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

**2.**—(1) The parish meeting for a rural parish shall consist of the following persons, in this Act referred to as parochial electors, and no others, namely the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish (*a*).

\* \* \* \* \*

**3.**—(5) The parish councillors shall be elected by the parochial electors (*b*) of the parish.

\* \* \* \* \*

**18.**—(1) A county council may, on application by the parish council, or not less than one tenth of the parochial electors of a parish, and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, order that the parish be divided for the purpose of electing parish councillors into wards, to be called parish wards (*c*), with such boundaries and such number of councillors for each ward as may be provided by the order.

(2) In the division of a parish into wards regard shall be had to the population according to the last published census for the time being and to the evidence of any considerable change of population since that census, and to area, and to the distribution and pursuits of the population, and to all the circumstances of the case.

(3) Any such order may be revoked or varied by the county council on application by either the council or not less than one tenth of the parochial electors of the parish, but while in force shall have effect as if enacted by this Act.

(4) In a parish divided into parish wards there shall be a separate election of parish councillors for each ward.

\* \* \* \* \*

**PART II.****GUARDIANS AND DISTRICT COUNCILS.**Election and  
qualification of  
guardians.  
P. 239.

**20.** As from the appointed day the following provisions shall apply to boards of guardians (*d*):—

\* \* \* \* \*

(3) The parochial electors of a parish shall be the electors of the guardians for the parish, and, if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward:

\* \* \* \* \*

(*a*) See s. 44, *post*.

(*b*) See s. 2 (1), *supra*, and s. 44, *post*.

(*c*) See s. 44 (3), *post*, as to framing the lists of parochial electors in parts for wards of parishes.

(*d*) See s. 24 (3), *post*.



21. As from the appointed day,—

## Section 21.

(1) Urban sanitary authorities shall be called urban district councils, and their districts shall be called urban districts ; but nothing in this section shall alter the style or title of the corporation or council of a borough : Names of county districts and district councils.

(2) For every rural sanitary district there shall be a rural district council whose district shall be called a rural district :

(3) In this and every other Act of Parliament (*e*), unless the context otherwise requires, the expression “district council” shall include the council of every urban district, whether a borough or not, and of every rural district, and the expression “county district” shall include every urban and rural district whether a borough or not.

\* \* \* \* \*

23. As from the appointed day, where an urban district is not a borough— Constitution of district councils in urban districts not being boroughs. P. 239.

\* \* \* \* \*

(3) The parochial electors of the parishes in the district shall be the electors of the councillors of the district, and, if the district is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :

\* \* \* \* \*

24.—(1) The district council of every rural district shall consist of a chairman and councillors, and the councillors shall be elected by the parishes or other areas for the election of guardians in the district. Rural district councils. P. 239.

(2) The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area.

(3) The district councillors for any parish or other area in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area.

(4) The provisions of this Act with respect to the qualification, election, and term of office and retirement of guardians, and to the qualification of the chairman of the board of guardians, shall apply to district councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district.

(5) Where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall, save as otherwise provided by or in pursuance of this or any other Act, be as from the appointed day a rural district ;

Provided that where the number of councillors of any such district will be less than five, the provisions, so far as unrepealed, of section nine of the Public Health Act, 1875, with respect to the nomination of persons to make up the members of a rural authority to five, shall apply, unless the Local Government Board by order direct that the 38 & 39 Vict. c. 55.

**Section 24.** affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day, and, if they so direct, the councillors of the district shall be entitled, so far as regards those affairs, to sit and act as members of that district council, but a separate account shall be kept of receipts and expenses in respect of the district, and the same shall be credited or charged separately to the district.

(6) The said provisions of section nine of the Public Health Act, 1875, shall apply to the district council of a rural district to which they apply at the passing of this Act.

(7) Every district council for a rural district shall be a body corporate by the name of the district council, with the addition of the name of the district, or if there is any doubt as to the latter name, of such name as the county council direct, and shall have perpetual succession and a common seal, and may hold land for the purposes of their powers and duties without licence in mortmain.

\* \* \* \* \*

Guardians in London and county boroughs.

**30.** The provisions of this Part of this Act (*f*) respecting guardians shall apply to the administrative county of London and to every county borough.

Provisions as to London vestries and district boards.

**31.** (1) The provisions of this Act with respect to the qualification of the electors of urban district councillors (*g*), and of the persons to be elected, and with respect to the mode of conducting the election, shall apply as if members of the local board of Woolwich and the vestries elected under the Metropolis Management Acts, 1855 to 1890, or any Act amending those Acts, and the auditors for parishes elected under those Acts, and so far as respects the qualification of persons to be elected as if members of the district boards under the said Acts, were urban district councillors, and no person shall, ex-officio, be chairman of any of the said vestries. Provided that the Elections (Hours of Poll) Act, 1885, shall apply to elections to the said vestries.

48 Vict. c. 10.

\* \* \* \* \*

Power to apply certain provisions of Act to urban districts and London.

P. 287.

**33.**—(1) The Local Government Board may, on the application of the council of any municipal borough, including a county borough, or of any other urban district, make an order conferring on that council or some other representative body within the borough or district all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties (*h*), or liabilities of overseers, and any powers, duties, or liabilities of a parish council, and applying with the necessary modifications the provisions of this Act with reference thereto.

\* \* \* \* \*

(3) Any order under this section may provide for its operation extending either to the whole or to specified parts of the area of the borough or urban district, and may make such provisions as seem necessary for carrying the order into effect.

(*f*) See s. 20, *ante*, p. 572.

(*g*) See s. 23, *ante*, p. 573.

(*h*) This seems wide enough to carry the duties of overseers in relation to the registration of electors.

(4) The order shall not alter the incidence of any rate, and shall make such provisions as may seem necessary and just for the preservation of the existing interests of paid officers. Section 33.

(5) An order under this section may also be made on the application of any representative body within a borough or district.

(6) The provisions of this section respecting councils of urban districts shall apply to the administrative county of London in like manner as if the district of each sanitary authority in that county were an urban district, and the sanitary authority were the council of that district.

\* \* \* \* \*

34. Where an order of the Local Government Board under this Act confers on the council of an urban district, or some other representative body within the district, either the appointment of overseers and assistant overseers or the powers, duties, and liabilities of overseers, that order or any subsequent order of the Board may confer on such council or body the powers of the vestry under the third and fourth sections of the Poor Rate Assessment and Collection Act, 1869 (i).

Supplemental provisions as to control of overseers in urban districts.

32 & 33 Vict. c. 41.

35. Save as specially provided (k) by this Act, this Part of this Act shall not apply to the administrative county of London or to a county borough.

Restrictions on application of Act to London, etc.

### PART III.

#### AREAS AND BOUNDARIES.

36.—(1) For the purpose of carrying this Act into effect in the case of—

- (a) every parish and rural sanitary district which at the passing of this Act is situate partly within and partly without an administrative county; and
- (b) every parish which at the passing of this Act is situate partly within and partly without a sanitary district; and
- (c) every rural parish which has a population of less than two hundred; and
- (d) every rural sanitary district which at the passing of this Act has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district; and
- (e) every rural parish which is co-extensive with a rural sanitary district;

every county council shall forthwith take into consideration every such case within their county, and whether any proposal has or has not been made as mentioned in section fifty-seven of the Local Government Act, 1888 (l), shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect this Act in accordance with the following provisions, namely:—

51 & 52 Vict. c. 41.

- (i.) the whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;
- (ii.) the whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and

(i) *Ante*, p. 461.

(k) See ss. 30–34, *ante*.

(l) *Ante*, p. 560.

## Section 36

(iii.) every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

(2) Where a parish is at the passing of this Act situate in more than one urban district, the parts of the parish in each such district shall, as from the appointed day, unless the county council for special reasons otherwise direct, and subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

39 & 40 Vict.  
c. 61.

\* \* \* \* \*

(4.) Where a rural parish is co-extensive with a rural sanitary district then, until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish council shall not be held for the parish, but the district council shall, in addition to their own powers, have the powers of, and be deemed to be, the parish council.

(5.) Where an alteration of the boundary of any county or borough seems expedient for any of the purposes mentioned in this section, application shall be made to the Local Government Board for an order under section fifty-four of the Local Government Act, 1888 (*m*).

(6.) Where the alteration of a poor law union seems expedient by reason of any of the provisions of this Act, the county council may, by their order, provide for such alteration in accordance with section fifty-eight of the Local Government Act, 1888, or otherwise, but this provision shall not affect the powers of the Local Government Board with respect to the alteration of unions.

\* \* \* \* \*

(8.) Where the alteration of the boundary of any parish, or the division thereof or the union thereof or of part thereof with another parish, seems expedient for any of the purposes of this Act, provision for such alteration, division, or union may be made by an order of the county council confirmed by the Local Government Board under section fifty-seven of the Local Government Act, 1888 (*n*).

51 & 52 Vict.  
c. 41.

(9.) Where a parish is by this Act divided into two or more parishes, those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included.

\* \* \* \* \*

(11.) Where any of the areas referred to in section fifty-seven of the Local Government Act, 1888 (*n*), is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the councils of those counties shall, subject to the terms of delegation, be deemed to have and to have always had power to make orders under that section with respect to that area; and where at the passing of this Act a rural sanitary district or parish is situate in more than one county, a joint committee of the councils of those counties shall act under this section, and if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint

(*m*) *Ante*, p. 559.

(*n*) *Ante*, p. 560.



committee. Provided that any question arising as to the constitution or procedure of any such joint committee shall, if the county councils concerned fail to agree, be determined by the Local Government Board. **Section 36.**

(12.) Every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887, shall be laid before the council of any administrative county or borough affected by that report, and before any joint committee of county councils, and it shall be the duty of such councils and joint committees to take such reports into consideration before framing any order under the powers conferred on them under this Act. 50 & 51 Vict.  
c. 61.

(13.) Every county council shall, within two years after the passing of this Act, or within such further period as the Local Government Board may allow either generally or with reference to any particular matter, make such orders under this section as they deem necessary for the purpose of bringing this Act into operation, and after the expiration of the said two years or further period the powers of the county council for that purpose shall be transferred to the Local Government Board, who may exercise those powers.

\* \* \* \* \*

**38.—**(1.) Where parishes are grouped, the grouping order shall make the necessary provisions for the name of the group, for the parish meetings in each of the grouped parishes, and for the election in manner provided by this Act of separate representatives of each parish on the parish council, and may provide for the consent of the parish meeting of a parish to any particular act of the parish council, and for any other adaptations of this Act to the group of parishes, or to the parish meetings in the group. Orders for  
grouping  
parishes and  
dissolving  
groups.

(2.) Where parishes are grouped, the whole area under each parish council shall, unless the county council for special reasons otherwise direct, be within the same administrative county and county district.

\* \* \* \* \*

(4.) The parish meeting of any parish may apply to the county council for a grouping order respecting that parish, and, if the parish has a less population than two hundred, for a parish council, and any such application shall be forthwith taken into consideration by the county council.

(5.) The county council may, on the application of the council for any group of parishes or of the parish meeting for any parish included in a group of parishes, make an order dissolving the group, and shall by the order make such provision as appears necessary for the election of parish councils of the parishes in the group and for the adjustment of property, rights, and liabilities as between separate parishes and the group.

**39.—**(1.) Where the population of a parish not having a separate parish council increases so as to justify the election of such council, the parish meeting may petition the county council, and the county council, if they think proper, may order the election of a parish council in that parish, and shall by the order make such provision as appears necessary for separating the parish from any group of parishes in which it is included, and for the alteration of the parish council of the group, and for the adjustment of property, rights, and liabilities as between the group and the parish with a separate parish council. Provisions for  
increase and  
decrease of  
population.

(2.) Where the population of a parish, according to the last published census for the time being, is less than two hundred, the parish meeting

**Section 39.** may petition the county council, and the county council, if they think proper, may order the dissolution of the parish council, and from and after the date of the order this Act shall apply to that parish as to a parish not having a parish council. The order shall make such provision as appears necessary for carrying it into effect, and for the disposal and adjustment of the property, rights, and liabilities of the parish council. Where a petition for such an order is rejected, another petition for the same purpose may not be presented within two years from the presentation of the previous petition.

Certain orders of county council not to require confirmation.

**40.** A grouping order, and an order establishing or dissolving a parish council, or dissolving a group of parishes, and an order relating to the custody of parish documents or requiring the approval of the Charity Commissioners, and an order requiring the consent of the parish meeting for any part of the parish to any act or class of acts of the parish council, shall not require submission to or confirmation by the Local Government Board.

Reduction of time for appealing against county council orders.

**41.** The time for petitioning against an order under section fifty-seven of the Local Government Act, 1888 (*n*), shall be six weeks instead of three months after the notice referred to in sub-section three of that section.

Validity of county council orders.

**42.** When an order under section fifty-seven of the Local Government Act, 1888 (*n*), has been confirmed by the Local Government Board, such order shall at the expiration of six months from that confirmation be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

## PART IV.

### SUPPLEMENTAL.

#### *Parish Meetings and Elections.*

Removal of disqualification of married women.

Pp. 253, 263.

Register of parochial electors.

P. 252.

**43.** For the purposes of this Act a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.

**44.**—(1.) The local government register of electors and the parliamentary register of electors, so far as they relate to a parish, shall, together, form the register of the parochial electors of the parish; and any person whose name is not in that register shall not be entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register shall be entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by this or any other Act of Parliament (*o*).

(2.) Where the parish is in a parliamentary borough, such portion of the parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership (*p*) of any property in the parish shall be deemed to form part of the parliamentary register of electors for the parish within the meaning of this section.

(*n*) *Ante*, p. 560.

(*o*) See s. 2 (1), *ante*.

(*p*) See 6 & 7 Vict. c. 18, s. 6, *ante*, p. 430.

(3.) The lists and register of electors in any parish shall be framed in parts for wards of urban districts and parishes (*q*) in such manner that they may be conveniently used as lists for polling at elections for any such wards. **Section 44.**

(4.) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one register of parochial electors.

(5.) Where in that portion of the parliamentary register of electors which relates to a parish a person is entered to vote in a polling district other than the district comprising the parish (*r*), such person shall be entitled to vote as a parochial elector for that parish, and in addition to an asterisk there shall be placed against his name a number consecutive with the other numbers in the list.

(6.) Where the revising barrister in any list of voters for a parish would—

(a) in pursuance of section seven of the County Electors Act, 51 Vict. c. 10, 1888 (*s*), place an asterisk or other mark against the name of any person ; or

(b) in pursuance of section four of the Registration Act, 1885 (*t*), erase the name of any person otherwise than by reason of that name appearing more than once in the lists for the same parish ; or

(c) in pursuance of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878 (*u*), as amended by section five of the Registration Act, 1885 (*v*), place against the name of a person a note to the effect that such person is not entitled to vote in respect of the qualification contained in the list, <sup>41 & 42 Vict. c. 26.</sup> <sup>48 & 49 Vict. c. 15.</sup>

the revising barrister shall, instead of placing that mark or note, or erasing the name, place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list (*w*), or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector, and the name so marked shall not be printed in the parliamentary register of electors, but shall be printed, as the case requires, either in division three of the local government register of electors, or in a separate list of parochial electors (*x*).

(7.) Where the name of a person is entered both in the ownership list and in the occupation list of voters in the same parish, and the revising barrister places against that name a mark or note signifying that the name should be printed in division three of the lists, an asterisk or other mark shall be there printed against the name, and such person shall not be entitled to vote as a parochial elector in respect of that entry.

(8.) Such separate list (*y*) shall form part of the register of parochial electors of the parish, and shall be printed at the end of the other lists

(*q*) See s. 18, *ante*.

(*r*) See 6 & 7 Vict. c. 18, s. 36, *ante*, p. 414.

(*s*) Sub-s. (5) *ante*, p. 551.

(*t*) Sub-s. (9), *ante*, p. 532.

(*u*) Sub-s. (14) *ante*, p. 491.

(*v*) *Ante*, p. 532.

(*w*) See 41 & 42 Vict. c. 26, s. 15 (2), *ante*, p. 484, applied to lists of occupation voters in counties by 48 & 49 Vict. c. 15, s. 1, *ante*, p. 529, and 51 & 52 Vict. c. 10, s. 4, *ante*, p. 547.

(*x*) See sub-s. (8), *post*, and Registration Order, 1895, Schedule 1, Precept, ss. 16 and 22, Forms Nos. 3 and 6.

(*y*) See sub-s. (6), *supra*, and note thereto.

**Section 44.** of electors for the parish, and the names shall be numbered consecutively with the other names on those lists, and the law relating to the register of electors shall, with the necessary modifications, apply accordingly, and the lists shall, for the purposes of this Act, be deemed to be part of such register.

(9.) Any person may claim for the purpose of having his name entered in the parochial electors lists, and the law relating to claims to be entered in lists of voters shall apply (z).

(10.) The clerk of the county council or town clerk, as the case may be, shall, in printing the lists returned to him by the revising barrister, do everything that is necessary for carrying into effect the provisions of this section with respect to the persons whose names are marked by the revising barrister in pursuance of this section.

\* \* \* \* \*

**48.—(3.)** At every election regulated by rules framed under this Act, the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882, as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

- (a) section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes; and
- (b) section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.

#### *Parish and District Councils.*

\* \* \* \* \*

Effect on parish  
council of  
constitution of  
urban district.

**54.—(1.)** Where a new borough is created, or any other new urban district is constituted, or the area of an urban district is extended, then—

- (a) as respects any rural parish or part of a rural parish which will be comprised in the borough or urban district, provision shall be made, either by the constitution of a new parish, or by the annexation of the parish or parts thereof to another parish or parishes, or otherwise, for the appointment of overseers and for placing the parish or part in the same position as other parishes in the borough or district, and
- (b) as respects any parish or part which remains rural, provision shall be made for the constitution of a new parish council for the same, or for the annexation of the parish or part to some other parish or parishes, or otherwise for the government of the parish or part, and
- (c) provision shall also, where necessary, be made for the adjustment of any property, debts, and liabilities affected by the said creation, constitution, or extension.

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(z) See Registration Order, 1895, Schedule 1, Precept, s. 16, Form No. 3, *post*.



(2) The provision aforesaid shall be made—

# Section 54.

- (a) where a new borough is created, by a scheme under section two hundred and thirteen of the Municipal Corporations Act, 1882; 15 & 16 Vict. c. 51.
- (b) where any other new urban district is constituted, by an order of the county council under section fifty-seven of the Local Government Act, 1888 (b); 5 & 52 Vict. c. 11.
- (c) where the area of an urban district is extended, by an order of the Local Government Board under section fifty-four, or of the county council under section fifty-seven, as the case may be, of the Local Government Act, 1888 (c).
- (3) where the area of an urban district is diminished this section shall apply with the necessary modifications.

\* \* \* \* \*

## Miscellaneous.

60.—(1.) The council of each county may, from time to time, by order, fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and for those purposes may exercise powers of adding parishes to each other and dividing parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board. Supplemental provisions as to guardians.

\* \* \* \* \*

(3.) Where a poor law union is situate in more than one county, the power under this section of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, shall be exercised by a joint committee of the councils of the counties concerned, but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee.

Provided that if any order under this sub-section is, within six weeks after the making thereof, objected to by any of the county councils concerned, or by any committee of any of those councils authorized in that behalf, it shall be of no effect until confirmed by the Local Government Board.

(4.) Where, under any local or personal Act, guardians of a poor law union are elected for districts, whether called by that name or not, the provisions of this Act with respect to the election of guardians shall apply as if each of the districts were a parish.

69. Where an alteration of any area is made by this Act, an order for any of the matters mentioned in section fifty-nine of the Local Government Act, 1888 (d), may, if it appears to the county council desirable, be made by the county council, or, in the case of an area situate in more than one county, by a joint committee of county councils, but nothing in this section shall empower a county council or joint committee to alter the boundaries of a county. Power to deal with matters arising out of alteration of boundaries.

\* \* \* \* \*

71. A copy of every order made by a county council or joint committee in pursuance of this Act shall be sent to the Local Government Board, and, if it alters any local area or name, also to the Board of Agriculture. Supplemental provisions as to county council orders.

\* \* \* \* \*

(b) *Ante*, p. 560.

(c) *Ante*, pp. 559, 560.

(d) *Ante*, p. 561, and see particularly sub-s. (3) of that section.

**Section 75.** 75.—(1.) The definition of “parish” in section one hundred of the Local Government Act, 1888 (c), shall not apply to this Act, but, save as aforesaid, expressions used in this Act shall, unless the context otherwise requires, have the same meaning as in the said Act.

Construction  
of Act.  
51 & 52 Vict.  
c. 41.

(2.) In this Act, unless the context otherwise requires—

Any reference to population means the population according to the census of one thousand eight hundred and ninety-one.

The expression “parochial elector,” when used with reference to a parish in an urban district, or in the county of London or any county borough, means any person who would be a parochial elector of the parish if it were a rural parish.

The expression “election” includes both the nomination and the poll.

The expression “trustees” includes persons administering or managing any charity or recreation ground, or other property or thing in relation to which the word is used.

The expression “ecclesiastical charity” includes a charity, the endowment whereof is held for some one or more of the following purposes:—

- (a) for any spiritual purpose which is a legal purpose ; or
- (b) for the benefit of any spiritual person or ecclesiastical officer as such ; or
- (c) for use, if a building, as a church, chapel, mission room or Sunday school, or otherwise by any particular church or denomination ; or
- (d) for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein ; or
- (e) otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act ; and the Charity Commissioners shall, on application by any person interested, make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act.

The expression shall also include any building which in the opinion of the Charity Commissioners has been erected or provided within forty years before the passing of this Act mainly by or at the cost of members of any particular church or denomination.

The expression “affairs of the church” shall include the distribution of offertories or other collections made in any church.

The expression “parochial charity” means a charity the benefits of which are or the separate distribution of the benefits of which is confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighbouring parishes.

The expression “vestry” in relation to a parish means the inhabitants of the parish whether in vestry assembled or not, and includes any select vestry either by statute or at common law.

The expression "rateable value" means the rateable value stated in the valuation list in force, or, if there is no such list, in the last poor rate. **Section 75.**

The expression "county" includes a county borough, and the expression "county council" includes the council of a county borough.

The expression "elementary school" means an elementary school within the meaning of the Elementary Education Act, 1870. **33 & 34 Vict. c. 75.**

The expression "local and personal Act" includes a Provisional Order confirmed by an Act and the Act confirming the Order.

The expression "prescribed" means prescribed by order of the Local Government Board.

**76.** This Act shall not extend to Scotland or Ireland.

**Extent of Act.**

**77.** This Act may be cited as the Local Government Act, 1894.

**Short title.**

## PART V.

### TRANSITORY PROVISIONS.

\* \* \* \* \*

**89.** The Acts specified in the Second Schedule to this Act are hereby repealed as from the appointed day to the extent in the third column of that schedule mentioned, and so much of any Act, whether public general or local and personal, as is inconsistent with this Act is also hereby repealed. Provided that where any wards of an urban district have been created, or any number of members of an urban sanitary authority fixed, by or in pursuance of any local and personal Act, such wards and number of members shall continue and be alterable in like manner as if they had been fixed by an order of the county council under this or any other Act. **Repeal.**

\* \* \* \* \*

### SECOND SCHEDULE.

#### ENACTMENTS REPEALED.

**Section 89.**

Session and Chapter.	Short Title.	Extent of Repeal.
54 Geo. 3, c. 91.	An Act to amend so much of an Act passed in the forty-third year of Her late Majesty Queen Elizabeth, as concerns the time for appointing overseers of the poor.	The whole Act, so far as it relates to rural parishes.
58 Geo. 3, c. 69.	The Vestries Act, 1818.	Sections one, two, three, and four, so far as they relate to parish meetings and parish councils under this Act.
59 Geo. 3, c. 85.	The Vestries Act, 1819.	The whole Act, so far as it relates to parish meetings under this Act.
1 & 2 Will. 4, c. 60.	The Vestries Act, 1831.	The whole Act, so far as it relates to parish meetings under this Act, except section thirty-nine.

## Schedule 2.

SECOND SCHEDULE—*continued*.

Session and Chapter.	Short Title.	Extent of Repeal.
4 & 5 Will. 4, c. 76.	The Poor Law Amendment Act, 1834.	<p>In section thirty-eight, the words "and the said guardians shall be elected by the ratepayers and by such owners of property in the parishes forming such union as shall in manner herein-after mentioned require to have their names entered as entitled to vote as owners in the books of such parishes respectively"; and from "and also fix a qualification" to "for the ensuing year shall be chosen;" and from "and every justice of the peace" to "as such elected guardians;" and from "Provided also" to the end of the section.</p> <p>Section thirty-nine, from "and every justice" to the end of the section.</p> <p>In section forty, the words "In all cases of the election of guardians under this Act or."</p> <p>Section forty-one.</p> <p>Section forty-eight from "Provided always" to the end of the section, so far as the words repealed relate to the office of parish or district councillor or guardian.</p>
5 & 6 Will. 4, c. 50.	The Highway Act, 1835 -	<p>In section forty-eight the words "with the consent in writing of the justices of the peace at a special sessions for the highways" and the words "at and for such price as the said justices may deem fair and reasonable."</p>
7 Will. 4 & 1 Vict. c. 45.	The Parish Notices Act, 1837.	<p>Section three, so far as it relates to notices by parish councils and notices of parish meetings under this Act.</p>
5 & 6 Vict. c. 57	The Poor Law Amendment Act, 1842.	<p>Section eight, section eleven, from "and in every case," to the end of the section, and section fifteen.</p>



SECOND SCHEDULE—*continued.*

## Schedule 2.

Session and Chapter.	Short Title.	Extent of Repeal.
7 & 8 Vict. c. 101	The Poor Law Amendment Act, 1844.	Sections seventeen, twenty, and twenty-four, and section sixty-one from "and wherever any such collector" to "provisions of this Act."
13 & 14 Vict. c. 57.	The Vestries Act, 1850 -	Sections six, seven, eight, and nine, so far as they relate to parish meetings under this Act.
14 & 15 Vict. c. 105.	The Poor Law Amendment Act, 1851.	Section two and section three.
16 & 17 Vict. c. 65.	The Vestries Act, 1853 -	The whole Act, so far as it relates to parish meetings under this Act.
18 & 19 Vict. c. 120.	The Metropolis Management Act, 1855.	Section six. Sections thirteen to twenty-seven. In section thirty the words "or custom." Section fifty-four. In section two hundred and thirty-five the words "under this Act," where they secondly occur.
19 & 20 Vict. c. 112.	The Metropolis Management Amendment Act, 1856.	Sections six, seven, and eight.
23 & 24 Vict. c. 30.	The Public Improvements Act, 1860.	In section four the words "in value."
25 & 26 Vict. c. 102.	The Metropolis Management Amendment Act, 1862.	Section thirty-six; and section forty from "by rating" to "of such parish."
25 & 26 Vict. c. 103.	The Union Assessment Act, 1862.	In section two, the words "consisting partly of ex-officio and partly of elected guardians," and from "Provided always" to the end of the section. In section five, the words "ex-officio or elected," in both places where they occur, and the words, "as the case may be."
30 & 31 Vict. c. 6	The Metropolitan Poor Act, 1867.	Section seventy-nine.
30 & 31 Vict. c. 106.	The Poor Law Amendment Act, 1867.	Sections four, five, six, and nine, section ten so far as it relates to elections of guardians, and section twelve.

## Schedule 2.

SECOND SCHEDULE—*continued*.

Session and Chapter.	Short Title.	Extent of Repeal.
31 & 32 Vict. c. 122.	The Poor Law Amendment Act, 1868.	Section four, from "and the powers" to the end of the section.
38 & 39 Vict. c. 55.	The Public Health Act, 1875.	Section eight from "and the number" to the end of the section. In section nine, from "Provided that (1) An ex-officio guardian" to "situated in an urban district" (being the provisoes); and the words "from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for a union," and from "Subject to the provisions of this Act" to the end of the section. Section two hundred, except so far as it applies to boroughs; sections two hundred and one and two hundred and four, section two hundred and forty-eight, except so far as it relates to overseers, and section three hundred and twelve. So much of Schedule I. as relates to committees, and Schedule II.
39 & 40 Vict. c. 61.	The Divided Parishes and Poor Law Amendment Act, 1876.	Section six, from "The meeting of inhabitants" to the end of the section, so far as it relates to rural parishes. Section eight to "no alteration," except as to cases where a parish is dealt with by order of the Local Government Board.
39 & 40 Vict. c. 79.	The Elementary Education Act, 1876.	In section seven the words "so however that in the case of a committee appointed by guardians one third at least shall consist of ex-officio guardians, if there are any and sufficient ex-officio guardians"

SECOND SCHEDULE—*continued.***Schedule 2.**

Session and Chapter.	Short Title.	Extent of Repeal.
47 & 48 Vict. c. 70.	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.	Section thirty-six, from “(h.) The Local Government Board” to “validity of any vote.”
48 & 49 Vict. c. 53.	The Public Health (Members and Officers) Act, 1885.	Sections three and four.
55 & 56 Vict. c. 53.	The Public Libraries Act, 1892.	Sub-section three of section one. The First Schedule so far as it applies to rural parishes.

## THE REGISTRATION ORDER, 1895.

Order in  
Council,  
March 8th,  
1895.

AT THE COURT OF WINDSOR,

The 8th day of March, 1895.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Local Government Act, 1888 (*e*), it is enacted that it shall be lawful for Her Majesty the Queen, by Order in Council, from time to time to alter the instructions, precepts, notices, and forms under the Registration of Electors Acts, in such manner as appears to Her Majesty necessary for carrying into effect the said Act and the County Electors Act, 1888 (*f*), and any other Act for the time being in force amending or affecting the Acts above mentioned :

And whereas it appears necessary to Her Majesty for the aforesaid purpose that the instructions, precepts, notices, and forms under the Registration of Electors Acts should be altered in manner provided by this Order :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority committed to Her by the said Local Government Act, 1888, and of all other powers enabling her on that behalf, doth declare it, and it is hereby declared, to be necessary for carrying into effect the Local Government Act, 1888, and the County Electors Act, 1888, and the other Acts in force amending or affecting the said Acts, or the Registration of Electors Acts, that the instructions, precepts, notices, and forms under the said Registration of Electors Acts should be altered in manner appearing by the three schedules (*g*)

(*e*) 51 & 52 Vict. c. 41, s. 76 (*g*), *ante*, p. 563.

(*f*) 51 & 52 Vict. c. 10.

(*g*) These three Schedules deal with the following classes of electors :—

- (1) Parliamentary ownership electors.
- (2) Parliamentary occupation electors and local government electors in parishes not in a parliamentary borough.
- (3) Parliamentary occupation electors and local government electors for parishes in a parliamentary borough.

Inasmuch as the precept in the First Schedule relating to ownership electors must in a large number of cases be sent separately from any precept relating to occupation electors, it is conveniently made a separate precept, although formerly ownership electors and occupation electors were included in one precept in the Second Schedule to the Registration Act, 1885 (48 & 49 Vict. c. 15).

The difference between the precepts in the Second and Third Schedules consists mainly in the difference between the county and borough parliamentary franchise. The Second Schedule is, however, intended primarily to suit clerks of county councils who deal with county electors, whilst the Third Schedule is intended primarily to suit town clerks of municipal boroughs who deal with burgesses.



to this Order and so that the instructions, precepts, notices, and forms set forth in the three schedules to this Order should be the instructions, precepts, notices, and forms under the Registration of Electors Acts.

And it is hereby ordered that the former instructions, precepts, notices, and forms shall be altered accordingly, and that the instructions, precepts, notices, and forms in the schedules to this Order shall be observed and be valid in law.

This Order may be cited as the Registration Order, 1895.

C. L. PEEL.

## FIRST SCHEDULE.

### Ownership Electors.

#### INSTRUCTIONS AS TO OWNERSHIP ELECTORS.

1. The precept according to the form in this schedule will be sent to the overseers of every parish or township by the clerk of the county council (*h*) on or within seven days before the 15th day of April (*i*). **Schedule 1.**

2. If there is no corrupt and illegal practices list (*k*), the clerk of the county council will omit from the precept and forms all parts relating to it (*l*).

3. Where part of a parish or township is situate within and part without the boundary of a county or division of a county or of a parliamentary or municipal borough, each such part of a parish or township is deemed to be a separate parish or township for the purpose of this schedule (*m*).

4. Separate precepts must be sent to the overseers of such parish or township, as if that portion of the parish or township which is within the said boundary were a separate parish or township from the portion without the said boundary (*n*).

5. The clerk of the county council must add to the precept a note to the effect that any reference in it to the parish or township means only that portion of the parish or township which is situate inside or outside the said boundary, as the case may be, and that the lists for the portion to which the precept refers must be made out separately, as if the portion were a separate parish or township.

6. The clerk of the county council will send to the overseers of every parish or township such number of copies of the ownership portion of the register of parliamentary electors (*n*), (including the ownership part of the parochial electors list) (*o*) for the parish or township, as he considers sufficient, and a sufficient number of copies of the corrupt and illegal practices list, if any (*l*); and a copy of each of the forms following the precept in this schedule.

7.—(*i*) The lists of ownership electors, when revised by the revising barrister, must be printed, and the names numbered and the lists made up in manner directed by the instructions in the Second Schedule, and, so far

(*h*) See definition, *post*, paragraph 10 (*ii*). See also *ante*, p. 281.

(*i*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 7 (1), *ante*, p. 534.

(*k*) Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), s. 39. Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 24.

(*l*) See Form of Precept, paragraphs 20, 21, and 26, *post*.

(*m*) See Registration Act, 1885 (48 & 49 Vict. c. 15), s. 9, *ante*, p. 535.

(*n*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 3, *ante*, p. 402.

(*o*) See Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44, *ante*, p. 578.

**Schedule 1.** as regards parliamentary electors, as part of the lists of parliamentary electors there mentioned.

(ii.) The names of all ownership electors marked by the revising barrister as entitled to vote only as parochial electors must be taken out of the lists of parliamentary electors and printed in the parochial electors list, and the names so printed will form the ownership part of that list, and the list will be so designated (o).

8. Where there is a registration officer appointed under section 4 of the County Electors Act, 1888 (*p*), for any parish or township, the precept will be sent to that officer instead of to the overseers.

9. If the clerk of the county council is in doubt as to whether there is or is not a registration officer, he should inquire of the clerk of the guardians, and if he cannot obtain information from him, should send the precept to the overseers, and instruct them to transmit it to the registration officer (if any).

10.—(i.) In these instructions the expression “electors” includes voters, and other expressions have the same meaning as in the Registration Act, 1885 (*q*).

(ii.) In these instructions the expression “clerk of the county council” does not include the town clerk of a county borough (*r*), and the county which is referred to, and which is to be mentioned at the head of the precept, is the county returning a member or members to serve in Parliament, and that county must be named at the head of the precept, notwithstanding that the parish or township to the overseers of which the precept is sent is situate in a county borough or in a different administrative county (*s*).

## FORM OF PRECEPT OF THE CLERK OF THE COUNTY COUNCIL TO THE OVERSEERS.\*

### For Ownership Electors—Registration of Electors.

County (*t*) of     } To the overseers\* of the poor of the parish of  
                          } or of the township of                     ].

In pursuance of the provisions of the Acts of Parliament in that behalf,  
I require your attention to the following instructions respecting the registration of ownership electors.

Part I. of this precept informs you generally of the persons entitled to be registered as ownership electors, and of the meaning of the expressions used in this precept, and also as to the mode in which you are to make out and publish the lists.

Part II. gives you in order of time the several matters which you are required to do.

You will receive a separate precept (*u*) from me [or the town clerk for ], respecting the registration of occupation electors.

(o) 56 & 57 Vict. c. 73, s. 44, *ante*, p. 578.

(p) 51 & 52 Vict. c. 10, s. 4 (2) (h), *ante*, p. 549.

(q) 48 & 49 Vict. c. 15, s. 19, *ante*, p. 538.

(r) *i.e.*, a county borough under the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 31, and Sched. 3, *ante*, pp. 556, 566.

(s) An administrative county means the area for which a county council is elected, but does not include a county borough. See the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 100, *ante*, p. 564.

(t) See definition in Instructions, paragraph 10, *supra*.

(u) See Schedules 2 and 3, *post*, pp. 600, 632.

\* In the case of a parish or township for which a registration officer has been appointed in pursuance of s. 4 of the County Electors Act, 1888, the precept will be addressed to him and not to the overseers.

## PART 1.

## Schedule 1.

GENERAL INSTRUCTIONS EXPLAINING THE MEANING OF THE EXPRESSIONS USED, AND THE MODE OF MAKING OUT AND PUBLISHING THE LISTS.

*Definitions.*

1. This precept relates to the registration of ownership electors for your [Definitions.] county [or division of the county].
2. In this precept—
  - (a.) The expression “register of electors” means the parliamentary register of electors, the local government register of electors, and the parochial electors list.
  - (b.) The expression “ownership electors” means persons entitled to be registered as electors in respect of an ownership qualification; that is to say, of the ownership of property, whether of freehold (x), leasehold (y), or copyhold (z) tenure.
  - (c.) The expression “ownership portion of the register” means the portion of the register of electors which contains the names of persons entitled to vote either as parliamentary or parochial electors in respect of an ownership qualification in your parish [or township].
  - (d.) The expression “list of ownership claimants” means the list to be made by you of persons who on or before the 20th day of July next shall have claimed to vote either as parliamentary or parochial electors in respect of an ownership qualification in your parish [or township].
3. A person entitled to be registered as an ownership elector must be a [Personal qualifications.] man of full age (a) and not subject to any legal incapacity (b), and must not at any time during the twelve months immediately preceding the 15th day of July next have received any parochial relief or other alms (c); but where a person has received for himself or for any member of his family any medical or surgical assistance, or any medicine, at the expense of any poor rate, he is not thereby deprived of his right to be registered, and medical or surgical assistance includes all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the poor law medical officer at the expense of any poor rate (d).

*Mode of making out Lists.*

- 4.—(i.) Each list must be made out in alphabetical order.
- (ii.) If your parish [or township] is so divided that you are required to make out the lists of the occupation voters in any part of your parish [or township] as if it were a separate parish [or township], you must make out the lists under this precept for that part of your parish [or township] as if it were a separate parish [or township]. [Order of names in lists.]
5. In making out any list you are to state the surname and other name or names of each person at full length, the surname being placed first.
6. In making out the lists of ownership claimants and of ownership electors objected to, the surname and other names of every claimant or person objected to, together with the particulars respecting the place of his abode (e), the nature of his qualification, and the locality of the [Entries how made.]

(x) *Ante*, p. 10.

(z) *Ante*, p. 75.

(y) *Ante*, p. 85.

(a) *Ante*, p. 264.

(b) *Ante*, p. 253.

(c) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 40, *ante*, p. 453, and see *post*, paragraph 15 of this precept.

(d) Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 46), ss. 2, 4, *ante*, p. 542.

(e) The place of abode should be entered with the name (if any) of the street, lane, or other locality, and the number (if any) in such street, lane

**Schedule 1.** qualifying property (*f*), must be copied into the list from the notices of claim or objection, as the case may be.

7. Where claims in respect of several qualifications are made by the same person, the particulars respecting each qualification should be stated in the list.

[Registrar's  
return of  
death.]

8. The registrars of births and deaths are required (*g*) to send to you periodically returns of the names and residences of all male persons of full age dying within your parish [or township], and you must examine those returns to see whether any person who appears in the ownership portion of the register, or the list of ownership claimants, is dead, and you are to pay the registrar, as part of your expenses connected with registration, a fee of twopence for each return, and a further fee of twopence for every death entered in such returns.

#### *Publication and Inspection.*

[Mode of  
publication.]

9. The manner in which you are required to publish the ownership portion of the register and the lists, notices, and documents, directed by this precept to be published is as follows; (that is to say,) you are to fix a copy thereof (each copy being first signed by you)—

- (a) on or near the outside of the outer door or of the outer wall near the door of every church and public chapel in your parish [or township], including chapels which do not belong to the Established Church; or
- (b) if there is no such church or chapel, then in some public or conspicuous situation in your parish [or township] (*h*); and
- (c) if your parish [or township] is wholly or partly situate in a borough or other urban district and not in a parliamentary borough, then in or near every public or municipal or parochial office in your parish [or township], and, (having first obtained the authority of the local postmaster, or if he refuses, of the Postmaster-General), in some public and conspicuous position in or near every post office and telegraph office occupied by or on behalf of the Postmaster-General (*i*).

[Time of  
publication.]

10. Everything so published must remain there during a period including two consecutive Sundays at least next after the first day of publication, and if you find any portion of a register, list, notice, or other document published by you in pursuance of this precept to be destroyed, mutilated, defaced, or removed, you are forthwith to place another to the same effect in its place (*k*).

[Inspection and  
sale of copies.]

11. Where this precept directs you during any period to allow any copy of a portion of a register, list, notice, or other document to be open to public inspection, and to deliver copies thereof (*l*), you will permit such

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or other locality, and such entry should be made in all cases in such a manner as will afford a full and sufficient address for the person entered, if a letter is addressed to him by post.

(*f*) In the Forms this is called the "description of the qualifying property." By the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 5, the name of the occupying tenant is also required to be stated, *ante*, p. 402. See also Form 2, note (ii.), *post*.

(*g*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 11, *ante*, p. 482. And see paragraphs 12 (b) and 17, *post*.

(*h*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 23, *ante*, p. 409. See also note (h), *ante*, p. 288.

(*i*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 9, *ante*, p. 482, as applied by Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, *ante*, p. 529.

(*k*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 24, *ante*, p. 410.

(*l*) See paragraphs 19, 21, 24, 26, *post*.



copy, list, notice, or document to be perused by every person desirous of perusing it at any time between the hours of ten o'clock in the forenoon and four o'clock in the afternoon of any day, except Sunday, during the said period, without payment or demand of any fee; and you are also to deliver a written or printed copy of it, signed by you, to every person applying for the same during the said period, on payment of a price for such copy after the following rate (*m*). Schedule 1.

For any list or copy of a list containing any number of persons' names—

	<i>s.</i>	<i>d.</i>
Not exceeding 100 names - - - - -	0	6
Exceeding 100 and not exceeding 200 - - - - -	1	0
Exceeding 200 and not exceeding 300 - - - - -	1	6
Exceeding 300 and not exceeding 400 - - - - -	2	0
Exceeding 400 - - - - -	2	6

12. You must allow any person who is registered as a parliamentary elector for your division [*or county*] to inspect at all reasonable times, free of charge—

- (a) the books containing the poor rates made for your parish [*or township*] within the last two years, and to make a copy of or take an extract from such books (*n*); and
- (b) the returns of deaths sent to you by the registrars of births and deaths (*o*).

## PART II.

### THINGS TO BE DONE IN ORDER OF DATE.

13. On or before the 20th day of June next you are to publish in manner directed by paragraph 9 of this precept the ownership portion (but not any other portion) of the register for your parish [*or township*], a copy of which is sent herewith, together with a notice, signed by you, according to the form marked No. 1, among the printed forms sent herewith, but such copy and notice are not to remain published after the 25th day of July next (*p*). [June 20th.]

14. On or before the 25th day of July next you will remove the copy of the ownership portion of the register published as directed by paragraph 13 of this precept (*q*). [July 25th.]

15. On or before the last day of July next you are to ascertain from the relieving officer acting for your parish [*or township*] the names of all persons who are disqualified from being inserted in the lists of ownership electors for your parish [*or township*] by reason of having received parochial relief, and the relieving officer upon your application is bound to produce to you at such place in your parish [*or township*] and at such times as are required by you the books in his possession, containing the names of such persons (*r*). [July 31st.]

### *List of Electors.*

16. On or before the last day of July next you are to make out, in manner directed by paragraphs 4 to 7 of this precept, the list of ownership [July 31st.]

(*m*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 5, 8, and Schedule (D.) No. 1, *ante*, pp. 403, 404, 436.

(*n*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 16, *ante*, p. 407; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 13, *ante*, p. 484.

(*o*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 11, *ante*, p. 482, and see paragraph 8, *ante*, and paragraph 17, *post*.

(*p*) Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 4, *ante*, p. 402; County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 3, *ante*, p. 441.

(*q*) After removal, note up as directed by paragraph 17, *post*, in order to publish again with additions on August 1st, as directed by paragraph 18, *post*.

(*r*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 12, *ante*, p. 483.

**Schedule 1.** claimants, that is to say, a list (in the Form No. 3 sent herewith) of all persons who, on or before the 20th day of July next, have delivered or sent to you or any one of you their claim to be registered as ownership electors (s); but you must place in a separate part of the list the names of those who claim to have their names entered in the parochial electors list in respect of an ownership qualification.

[July 31st.] 17. On or before the last day of July next you are to add on the margin of one copy of the ownership portion of the register for your parish [or township] sent herewith, and on the margin of the list of ownership claimants, the word "objected" before the name of every person therein whom you have reasonable cause to believe to be not entitled to be registered in the ownership portion of the new register about to be made, and the word "dead" before the name of every person therein whom you have reason from the returns sent by the registrars of births and deaths or from your own knowledge to believe to be dead (s).

[August 1st.] 18. On or before the 1st day of August next you are to sign one of the copies of the ownership portion of the register for your parish [or township] sent herewith, and the said list of ownership claimants, and to cause a sufficient number of copies of such list to be written or printed, and to publish the said portion of the register with your marginal additions and the said list signed by you in your parish [or township] in manner directed by paragraph 9 of this precept (s).

19. You are also to keep a copy signed by you of the said list, and a copy of the ownership portion of the register, with your marginal additions thereon signed by you, and during the first fourteen days after you have published them are to allow them to be open to public inspection, and to deliver copies thereof in accordance with paragraph 11 of this precept (s).

20. You are also to publish the corrupt and illegal practices list which is sent herewith, at the same time and in the same manner as you publish the list of ownership claimants (t).

21. You are to keep a written or printed copy of the corrupt and illegal practices list, and during the first fourteen days after the publication thereof are to allow them to be open to public inspection, and to deliver copies thereof in accordance with paragraph 11 of this precept (t).

#### *Claims and Objections.*

[August 25th.] 22. On or before the 25th day of August next you are to make out (in accordance with paragraphs 4 to 7 of this precept, and according to the Form No. 6 sent herewith) a list of ownership electors objected to, that is to say, a list containing the name of every person whose name is entered in the ownership portion of the register or list of ownership claimants, against whom a notice of objection has been given to you or any one of you, on or before the 20th day of August next (x).

[August 25th.] 23. On or before the 25th day of August next you are to sign and publish in the manner directed by paragraph 9 of this precept a copy of the list made by you in pursuance of paragraph 22 of this precept (x).

24. You are to keep a copy of such list signed by you, and during the fourteen days next after the 25th day of August next are to allow the

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(s) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 5, *ante*, p. 402.

(t) Corrupt and Illegal Practices Act, 1883 (46 & 47 Vict. c. 51), s. 39 (3); Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 24 (3). If there is no corrupt and illegal practices list, the paragraphs relating to it must be omitted.

(x) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 8, *ante*, p. 404; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 3 (2), *ante*, p. 530.

same, and also the original notices of claims and objections, to be open to public inspection, and to deliver copies thereof, in accordance with paragraph 11 of this precept (*x*). **Schedule 1.**

25. On or before the 25th day of August next you are to deliver (*y*) [August 25th.] to me —

- (a) the list of ownership claimants signed by you ;
- (b) the copy of the ownership portion of the register (sent herewith), with your marginal additions signed by you ; and
- (c) a copy of the list of ownership electors objected to, signed by you.

26. You are also to make lists of persons claiming to be omitted from the corrupt and illegal practices list (sent herewith), and of persons objected to on the ground that they are omitted from the corrupt and illegal practices list, and you will deal with such lists, claims, and objections in the same manner, in all respects as is directed by paragraphs 16, 17, 22, 23, 24, and 25 of this precept, respecting claims and objections in relation to an ownership qualification, but any list made under this paragraph must be kept separate from every other list (*t*). [Omit this paragraph if there is no corrupt or illegal practices list].

#### *Attendance upon Revising Barrister.*

27.—(i.) You are to attend the court to be holden by the revising barrister for the revision of the lists of electors for your parish [*or* township]; and notice will be sent you of the time and place of holding such court.

(ii.) You are, at such court, to deliver to the revising barrister holding it the following documents :—

- (a.) All the original notices of claims and objections received by you ; and
- (b.) All notices of the withdrawal or revival of objections received by you (*a*).

If you fail to comply with this precept you will be liable to the penalties in that case provided (*b*).

Given under my hand this                      day of  
(Signed)                      A. B.

Clerk of the county council of                      .

## FORMS FOR OWNERSHIP ELECTORS.

### FORM No. 1.

#### Notice as to Ownership Claims to be given by the Overseers (*c*).

[ Division of the] county of                      .  
[ Parish [*or* township] of                      .

We hereby give notice, that all persons entitled to be registered as electors in respect of the ownership (whether freehold, copyhold, or leasehold) of any property situate wholly or in part within this parish [*or*

(*y*) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 9, *ante*, p. 404 ; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 3 (2), *ante*, p. 530.

(*a*) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 34, *ante*, p. 413.

(*b*) For every wilful neglect or refusal to do his duty under this precept, the revising barrister may fine any overseer or registration officer a sum not exceeding five pounds, nor less than twenty shillings. Besides, he is liable to an action for damages at the suit of the party aggrieved. See *ante*, p. 290.

(*c*) *Ante*, p. 593, paragraph 13 of this precept, and see Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. 18), s. 4, *ante*, p. 402 ; County Voters Registration Act, 1885 (28 & 29 Vict. c. 36), s. 3, *ante*, p. 441.

**Schedule 1.** township], who are not upon the register of electors now in force for the above division [county], or who being upon the register, do not retain the same qualification or place of abode as described in such register, and who are desirous to have their names inserted in the register of electors about to be made, are hereby required to give or send to us or any of us, on or before the twentieth day of July in this year, a notice in writing signed by them, in which their name and surname at full length, their place of abode, and the particulars of their qualification, must be legibly written, according to the form hereunder set forth.

Any person who is upon the present register of electors in respect of such ownership of property as above mentioned may also make his claim, if he thinks fit; but it is not necessary that he should do so if he still has the same qualification and place of abode now described in the register, unless he desires to have his name changed from the parochial electors' list to the parliamentary list of ownership electors, or *vice versâ*.

Any person who is upon the register now in force for the said county [or division] in respect of the ownership of property situate in another parish [or township], and desires to be on the parochial electors' list of this parish [or township] must, if he is not already in that list, send a notice as above mentioned, claiming to have his name entered therein.

Dated this            day of June in the year            .  
(Signed)    A. B. } Overseers of the above parish  
                 C. D. } [or township].

#### FORM No. 2.

#### Form of Notice of Claim to be given to Overseers by Claimants in respect of Ownership (d).

To the overseers of the parish [or township] of            .

I hereby give you notice, that I claim to have my name entered in the list of parliamentary electors [or in the parochial electors' list] in respect of the ownership of property in your parish [or township], and that the particulars of my place of abode and qualification are stated in the columns below.

Dated the            day of            in the year            .  
(Signed)    G. H.

Names of the Claimant at full Length, the Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

*Note.*—(i.) In every claim the place of abode should be entered with the name (if any) of the street, lane, or other locality, and the number (if any) in such street, lane, or other locality, and such entry should be made in all cases in such a manner as will afford a full and sufficient address for a person entered, if a letter is addressed to him by post.

(ii.) The description of the qualifying property should specify the street, lane, or other like place in the parish [or township] (if any), and number

(d) *Ante*, p. 292; and see Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 4, *ante*, p. 402; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (9), *ante*, p. 580.



of house (if any), where the property is situate, or name of the property, if known by any, or name of the occupying tenant; or if the qualification consists of a tithe rentcharge, of the name of the rectory, vicarage, chapelry, or benefice to which the rentcharge belongs, and if it consists of any other rentcharge, then the names of the owners of the property out of which such rent is issuing, or some of them, and the situation of the property, and a statement of the registration of the claimant in respect of such rentcharge in the register in force in the year 1884. **Schedule 1.**

(iii.) The description of the qualifying property should in all cases be such as will afford full and sufficient means of identifying such property (e).

## FORM No. 3.

**Form of List of Ownership Claimants (f).**

[Division of County of Parish [or township] of of the] { The list of persons claiming to be entitled to have their names entered in the list of parliamentary electors, or in the parochial electors lists in respect of the ownership of property situate in whole or in part within the said parish [or township].

*A.—Parliamentary List Claims.*

Margin for entering Overseers' Objections.	Names of each Claimant at full Length, the Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

*B.—Parochial Electors List Claims.*

Margin for entering Overseers' Objections.	Names of each Claimant at full Length, the Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) A. B. } Overseers of the said  
C. D. } parish [or township].

(e) *Ante*, p. 591, paragraph 6 of the precept. As to rent-charges, subject to a saving for the rights of voters registered in the year 1884, the right to be registered in respect of any rent-charge (except in the case of the owner of the whole of the tithe rent-charge of a rectory, vicarage, chapelry, or benefice to which an appointment of tithe rent-charge has been made in respect of any portion of tithes) is abolished by the Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 4 (1), *ante*, p. 523.

(f) *Ante*, p. 593, paragraph 16 of the precept; and see Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 5, *ante*, p. 402; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (9), *ante*, p. 580.

**Schedule 1.** NOTE.—In this form the particulars are to be copied from the claim sent in.

Overseers must insert in the foregoing list the name of the Parliamentary Division (*g*) in which their parish [*or* township] is situate, as well as that of their parish [*or* township].

#### FORM No. 4.

**Notice of Objection to Ownership Electors to be given to the Overseers (*h*).**

To the overseers of the parish [*or* township] of

I hereby give you notice that I object to the name of the person mentioned and described below being retained in the parliamentary [*or* parochial electors] list of ownership electors made out for your parish [*or* township] of

Name of the Person objected to as described in the Register or List of Ownership Claimants.	Place of Abode as described.	Nature of Qualification as described.	Description of Qualifying Property as given in the Register or List of Ownership Claimants.

Dated the            day of            in the year

(Signed) *A. B.*  
[*Place of Abode.*]

#### FORM No. 5.

##### *Form (a).*

**Notice of Objection to be given to persons whose names are in the Ownership portion of the Register when objected to by any person other than Overseers, and to the occupying tenant of the qualifying Property where notice is required to be given to the occupying Tenant (*i*).**

To *C. D.* of [*here insert the name and place of abode of the person objected to as described in the register, and in the case of notice to the tenant of the qualifying property insert his name and place of abode as described in the register*].

Take notice that I object to your name [*in the notice to the tenant instead of the words "your name," insert the name of the person objected to*] being retained in the parliamentary [*or* parochial electors] list of ownership electors for the parish [*or* township] of            in the [            division of the] county of            .

(*g*) *i.e.*, of the county at large—the county of Rutland, the Isle of Wight, and all the counties of Wales (except Carnarvon, Carmarthen, Denbigh and Glamorgan) are not divided, so that the above note will not apply in those counties.

(*h*) *Ante*, pp. 296—298; and see Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 7; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (8), *ante*, pp. 403, 579.

(*i*) *Ante*, pp. 298—309; and see Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 7; County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 6; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (8), *ante*, pp. 403, 441, 579.

**Schedule 1.**

And I ground my objection,  
on the 1st column of the register,  
or on the 2nd column,  
or on the 3rd column,  
and the objection relates  
to the nature of your interest [*in the notice to the tenant instead of  
the words "your interest," insert "the interest of," here insert the  
name of the person objected to,*] in the qualifying property ;  
or to the value of the qualifying property  
or on the 4th column.

Dated this            day of            one thousand eight hundred and            .  
Signed A. B. of [*place of abode*],  
on the register [*or*            list] of electors for  
the parish [*or township*] of            .

*Form (b).*

**Notice of Objection to be given to persons whose names are on the list of  
ownership claimants when objected to by any Person other than  
Overseers, and to the occupying tenant of the qualifying Property,  
where notice is required to be given to the occupying tenant (k).**

To C. D.            of            [*here insert the name and place of abode of the  
person objected to as described in the list, and in the case of notice to the  
tenant of the qualifying property insert his name and place of abode as  
described in the list.*]

Take notice that I object to your name [*in the notice to the tenant instead  
of the words "your name," insert the name of the person objected to*] being  
retained in the parliamentary [*or parochial*] electors [*list*] of ownership  
electors for the parish [*or township*] of            in the [*division of the*]  
county of            .

Dated this            day of            one thousand eight hundred and            .  
(Signed) A. B., of [*place of abode*],  
on the register [*or*            list] of electors  
for the parish [*or township*] of            .

**FORM No. 6.**

**List of Persons objected to as Ownership Electors to be published by the  
Overseers (l).**

Parish [*or township*] of            .  
The following persons have been objected to as not being entitled to have  
their names retained in this parish [*or township*] list of ownership  
electors.

*A.—Parliamentary List.*

Name of each Person objected to at full Length, the Surname being first.	Place of Abode.	Nature of the supposed Qualification.	Description of Qualifying Property as given in the Register or List of Ownership Claimants.

(k) *Ante*, p. 298 ; Parliamentary Voters Registration Act, 1843 (6 & 7  
Vict. c. 18), s. 7 ; County Voters Registration Act, 1865 (28 & 29 Vict.  
c. 36), s. 6 ; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (8),  
*ante*, pp. 403, 441, 579.

(l) *Ante*, p. 594, paragraph 22 of this precept ; and see Parliamentary  
Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 8 ; Local Government  
Act, 1894 (56 & 57 Vict. c. 73), s. 44 (8), *ante*, pp. 404, 579,

## Schedule 1.

B.—*Parochial Electors List.*

Name of each Person objected to at full Length, the Surname being first.	Place of Abode.	Nature of the supposed Qualification.	Description of Qualifying Property as given in the Register or List of Ownership Claimants.

(Signed) *A. B.* } Overseers of the said parish  
*C. D.* } [or township] of .

NOTE.—In this form copy particulars from register of electors or ownership list of claimants.

## FORM NO. 7.

Form of Declaration by Elector as to his Place of Abode (*m*).

I, *A. B.*, of [*place of abode*] on the ownership portion of the register [or list of ownership claimants] for the parish [or township] of , in the [ division of the] county of , do solemnly and sincerely declare that I possessed on the fifteenth day of July now last past the same qualification in respect of which my name was inserted in such register [or list], and that my true place of abode is now .

(Signed) *A. B.*  
*C. D.* [*Place of abode.*]

Made and subscribed before me, {  
the day of in the {*Signature of justice, etc.*  
year . {*[Statement of his quality as justice, etc.]*

## SECOND SCHEDULE.

## Occupation Electors.

## INSTRUCTIONS AS TO PARISH NOT IN A PARLIAMENTARY BOROUGH.

1. Where a parish or township is not within a parliamentary borough, the precept, according to the Form in this schedule, will be sent to the overseers of such parish or township by the clerk of the county council (*n*), or if the parish or township is situate in a municipal borough, by the town clerk of that borough (*o*), and will be so sent on or within seven days before the 15th day of April (*p*).

2. If there is no corrupt and illegal practices list the clerk of the county council or town clerk will omit from the precept and forms all parts relating to it (*q*).

(*m*) *Ante*, p. 292: and see County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 10, *ante*, p. 442.

(*n*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2)(b), *ante*, p. 548.

(*o*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (1) (a), *ante*, p. 548.

(*p*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 7 (1), *ante*, p. 534.

(*q*) See paragraphs 23 (d), 39, 40, and 46 of the precept, *post*.



## Schedule 2.

3. Where part of a parish or township is situate within and part without the boundary of a county or division of a county or of a parliamentary or municipal borough, each such part of the parish or township is deemed to be a separate parish or township for the purpose of this schedule (*r*), and this schedule applies only to that part which is outside the boundary of a parliamentary borough, whether it is within or without a municipal borough.

4. Separate precepts must be sent to the overseers of such parish or township, as if that portion which is within any such boundary as aforesaid were a separate parish or township from the portion without that boundary, and the provisions of the foregoing paragraph 1, with respect to the clerks who are to send the precept shall apply accordingly.

5. The clerk of the county council or town clerk sending any such precept must add to it a note to the effect that any reference in the precept to the parish or township means only that portion of the parish or township which is situate inside or outside the said boundary, as the case may be, and that the lists of all electors for the portion to which the precept refers must be made out separately, as if the portion were a separate parish or township.

6. The clerk of the county council or town clerk will send to the overseers of every parish or township for their information a copy (*s*) of the register of electors for the parish or township, and a sufficient number of copies of the corrupt and illegal practices list, if any; and a copy of each of the forms following the form of precept in the schedule.

7. Where the parish or township is situate within a municipal borough, the town clerk must substitute in his precept the expression "municipal borough" for "administrative county," and must make such consequential substitutions as are necessary in the precept of "burgesses" for "county electors," "burgess roll" for "county register," "enrolled" for "registered," "municipal" for "local government," and "borough rate" for "county rate" (*t*).

8. The clerk of the county council must, as soon as possible, proceed to cause copies of the lists of electors for each parish or township, when transmitted to him by the revising barrister, to be printed, and shall cause the names to be numbered and the lists to be made up so as to form the register of electors.

9.—(i.) The clerk of the county council must make up the lists of parliamentary electors according to polling districts for parliamentary elections.

(ii.) For the purpose of making up the county register he must obtain from the town clerk of every municipal borough a sufficient number of the revised lists of the burgesses in such municipal borough, and the town clerk must deliver to the clerk of the county council such number of copies of those lists as the clerk of the county council may require (*u*), and the clerk of the county council must make up the lists of county electors and of burgesses according to electoral divisions and polling districts for county council elections (*x*).

(*r*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 9, *ante*, p. 535.

(*s*) N.B.—These copies are sent for *information* and **not** to be used or copied in making out the new lists, which should be made out independently from the rate book, notices of claims and objections, declarations as to misdescription, and official information as to deaths and persons disqualified by receipt of relief.

(*t*) The form of precept is drawn primarily to suit clerks of county councils who have to do with the registration of county electors. Town clerks of municipal boroughs should be careful to make these substitutions, so as not to mislead the overseers or registration officer.

(*u*) *Ante*, p. 358, County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7, *ante*, p. 550.

(*v*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (e), *ante*, p. 548.

## Schedule 2.

10. (i.) The lists of electors for each parish or township, or for each part of a parish or township for which, owing to the parish or township being divided into or forming part of more than one voting area, separate lists are required to be made out, must, in making up the register, be kept separate, so that they may be obtained separately for use in every voting area (x).

(ii.) The names of persons required to be printed in the parochial electors list must be printed in a separate list at the end of the other lists of electors for the parish or township, or part of a parish or township, and the names so printed will form the occupation part of the parochial electors list, and the list will be so designated (y).

11. Each entry for voting on the parliamentary register and the county register and the parochial electors list is to be distinguished by a number in combination with such distinctive letter distinguishing the parliamentary polling district as the county council, or in default of any determination by them, the clerk of the county council may determine (z).

12. There should be a separate series of numbers for each parliamentary polling district, and number one should be prefixed to the first name in each polling district, and the names should be numbered consecutively down to the last name (a).

13. The names of the parliamentary electors and the names of the county electors and the names on the parochial electors list may be numbered consecutively, in the lists for each parliamentary polling district (b), and such portions of those lists, exclusive of the parochial electors list, as contain the names of parliamentary electors may be taken to form the register for parliamentary elections, and such portions of those lists, exclusive of the parochial electors list, as contain the names of county electors may be taken to form the county register, and the whole of the lists, so far as they relate to any parish or township, or ward of a parish or township, may be taken to form the register of the parochial electors for that parish or township, or ward.

14.—(i.) Where a person whose qualification for being registered is in a parish or township in one polling district has been registered by the revising barrister as being entitled at parliamentary elections to vote at the polling place of another polling district—

(a) the name of such person shall be retained in the list of electors in the parish in which his qualification is situate, and shall be numbered consecutively with the other names, and an asterisk shall be placed against his name; and

(b) his name shall be entered in the supplemental list at the end of the parish or township lists in the polling district in which he is registered as entitled to vote, and his name shall be numbered consecutively after the rest of the names in that polling district (c).

(ii.) Where the revising barrister places a mark against any name signifying that the name is to be printed in division three of the occupiers list or in the parochial electors list, that name must accordingly be printed in the proper order, either alphabetically or according to the street order in division three or in the parochial electors list as the case may be, and

(x) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (e), *ante*, p. 548.

(y) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (8), *ante*, p. 579.

(z) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 47; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (7); Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (8), *ante*, pp. 419, 531, 579.

(a) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (7), *ante*, p. 531.

(b) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (7), (8); Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (5), *ante*, pp. 531, 579.

(c) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (6), *ante*, p. 579.

where under sub-section (7) of section forty-four of the Local Government Act, 1894 (*d*), the revising barrister places against any name any mark or note which renders it necessary to print an asterisk or other mark against any name so printed in division three of the list, that asterisk or other mark must be added.

Schedule 2.

15. The clerk of the county council will add at the end of the register of electors a summary of the number of parliamentary electors in each polling district, and a summary of the number of county electors in each electoral division, and a summary of the number of electors in each parish or township, distinguishing the number of the names in the parochial electors list, and he will also add the total number of parliamentary electors in all the polling districts and of county electors in all the electoral divisions (*e*).

16. In any case to which section 92 of the Local Government Act, 1888, applies (*f*), the clerk of the county council who receives from the revising barrister the lists of electors in any such place as therein mentioned, must supply to any other clerk of a county council such number of revised lists as he may require for the purpose of making up the county register, and the clerk of the council of an administrative county to which a portion of another county is added for the purpose of county council elections shall, for the purpose of making up the county register, obtain the lists of county electors and burgesses having qualifying property in the said portion, and shall make them up with the other lists of electors into the county register.

17. If the parish or township is within a municipal borough the town clerk must make up the revised list of burgesses into the burgess roll and ward rolls (if any), and number the names of such burgesses in accordance with the Municipal Corporations Act, 1882, and any enactment amending the same (*g*).

18. Where there is a registration officer appointed under section four of the County Electors Act, 1888 (*h*), for any parish or township, the precept will be sent to that officer instead of to the overseers.

19. If the clerk of the county council or town clerk is in doubt as to whether there is or is not a registration officer, he should inquire of the clerk of the guardians, and if he cannot obtain information from him, should send the precept to the overseers, and require them to transmit it to the registration officer (if any).

20. In these instructions—

The expression “register of electors” means the parliamentary register of electors, the local government register of electors, and the parochial electors list.

(*d*) *Ante*, p. 579.

(*e*) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (8), *ante*, p. 531; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, p. 547.

(*f*) That is, where by virtue of the provisions of this Act, with regard to the county of London or to urban sanitary districts situate partly within and partly without the boundary of a county, a place situate in a parliamentary county becomes part of the county of the council other than the council having authority over the largest part of the parliamentary county, that is to say, the part which contains the largest number of occupation voters. For instance, the clerks of the county councils of Middlesex, Kent, and Surrey, who receive from the revising barristers the revised lists of electors for any part of Middlesex, Kent, or Surrey respectively, which is within the county of London, must supply to the clerk of the London county council such number of such revised lists as he may require for making up the London county register.

(*g*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 45, *ante*, p. 504.

(*h*) *Ante*, p. 549.

**Schedule 2.**

The expression "voting area" means any polling district, electoral division, borough, county district other than a borough, parish or township, or any ward of a borough, county district, parish or township, or any other area for which is held a separate election at which the register of electors is used.

The expression "electors" includes voters and burgesses; and Other expressions have the same meaning as in the Registration Act, 1885 (*i*).

## FORM OF PRECEPT TO THE OVERSEERS\* OF A PARISH NOT IN A PARLIAMENTARY BOROUGH.

### Registration of Occupation Electors.

[\* In the case of a parish for which a registration officer has been appointed in pursuance of s. 4 of the County Electors Act, 1888, the precept will be addressed to him and not to the overseers].

County of \_\_\_\_\_ } To the overseers of the poor\* of the parish of \_\_\_\_\_  
Administrative }  
County of \_\_\_\_\_ } [or of the township of \_\_\_\_\_].

In pursuance of the provisions of the Acts of Parliament in that behalf, I require your attention to the following instructions respecting the registration of occupation electors.

Part I. of this precept informs you generally of the persons entitled to be registered, and of the meaning of the expressions used in this precept, and also as to the mode in which you are to make out and publish the lists.

Part II. gives you in order of time the several matters which you are required to do.

As respects the ownership electors, you will receive a separate precept from me [or the clerk of the county council] (*k*).

### PART I.

GENERAL INSTRUCTIONS EXPLAINING THE PERSONS ENTITLED TO BE  
REGISTERED, THE MEANING OF THE EXPRESSIONS USED, AND THE  
MODE OF MAKING OUT AND PUBLISHING THE LISTS.

#### *Definitions.*

1.—(*i*.) This precept relates to the registration of occupation electors.

(*ii*.) Occupation electors may be parliamentary occupation electors or county electors.

2. In this precept the expression "parliamentary occupation electors" means persons entitled to be registered as parliamentary electors in respect of—

- (a) a fifty pounds rental qualification as hereafter defined in paragraph 6 of this precept;
- (b) a ten pounds occupation qualification as hereafter defined in paragraph 7 of this precept; or
- (c) a household qualification as hereafter defined in paragraph 8 of this precept; or
- (d) a lodger qualification as hereafter defined in paragraph 9 of this precept.

3. In this precept the expression "county electors" means persons entitled to be registered in respect of the old burgess qualification or of the ten pounds occupation burgess qualification (*l*).

[County  
electors.]

(*i*) 48 & 49 Vict. c. 15, s. 19, *ante*, p. 538.

(*k*) See Schedule 1 of this Order, *ante*, p. 590.

(*l*) It should be carefully borne in mind that the expression "county electors" is always a term of art. It does *not* include *all* persons entitled to be registered as electors, and to vote at the elections of county councillors. The burgesses of a municipal borough, not being a county borough under the Local Government Act, 1888, may also be included in



## Schedule 2.

4. In this precept "electors" includes "voters" (*m*).

5. A person entitled to be registered as a parliamentary occupation elector must be a man, of full age (*n*), and not subject to any legal incapacity (*o*), and must in all other respects be duly qualified (*p*) to be registered as a parliamentary elector, and must not at any time during the twelve months immediately preceding the 15th day of July next have received any parochial relief (*q*), or other alms (*r*); but where a person has received for himself or for any member of his family any medical or surgical assistance, or any medicine, at the expense of any poor rate, he is not thereby deprived of his right to be registered, and medical or surgical assistance includes all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the poor law medical officer at the expense of any poor rate (*s*).

[Electors.]

[General qualifications (parliamentary).]

6.—(i.) A person entitled to be registered as a parliamentary elector in respect of a fifty pounds rental qualification (*t*)—

[Fifty pounds rental qualification.]

- (a) must on the 15th day of July next be an occupier as tenant of some land or tenement in your parish [or township] for which he is bonâ fide liable to a yearly rent of not less than fifty pounds; and
- (b) must have occupied such land or tenement for the whole of the twelve months immediately preceding the 15th day of July next; and
- (c) must have been registered as an elector in respect of the said occupation in the register of electors in force during the year 1884 (*u*).

(ii.) If two or more persons jointly are such occupiers as above mentioned, and the rent is such as to give fifty pounds or more for each occupier, each such occupier, if he was registered in respect of the said occupation as aforesaid in the year 1884, is entitled to be registered as an elector (*x*).

7.—(i.) A person entitled to be registered as a parliamentary elector in respect of a ten pounds occupation qualification (*y*)—

[Ten pounds occupation qualification.]

- (a) must on the 15th day of July next be, and during the whole twelve months immediately preceding that day have been, an occupier, as owner or tenant, of some land or tenement in your parish [or township] of the clear yearly value of not less than ten pounds; and
- (b) such person, or someone else, must during those twelve months have been rated to all poor rates made in respect of such land or tenement; and

the county register and vote at elections of county councillors for the administrative county in which their borough is situate.

(*m*) The object of this paragraph is to bring in the statutory definitions of various classes of "voters," and such expressions as "lists of voters," when used in the statutes.

(*n*) *Ante*, p. 264.

(*o*) *Ante*, pp. 253—278.

(*p*) Notice specially that by the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11), four months absence in the performance of duty is not to disqualify any elector; see paragraph 13 (iii.), *post*.

(*q*) *Ante*, pp. 272—278; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 40, *ante*, p. 453; see also *post*, paragraph 36 of this precept.

(*r*) *Ante*, p. 275.

(*s*) Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 4), ss. 2, 4, *ante*, p. 542.

(*t*) *Ante*, p. 100.

(*u*) This is because this kind of qualification is now abolished, saving the rights of persons registered in respect thereof before the commencement of the Representation of the People Act, 1884 (48 & 49 Vict. c. 3).

(*x*) *Ante*, p. 103; N.B. Registration in 1884 is equally necessary for joint fifty pounds occupiers.

(*y*) *Ante*, p. 104.

**Schedule 2.** (c) all sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the 5th day of January last must have been paid on or before the 20th day of July next.

(ii.) If two or more persons, jointly, are such occupiers as above-mentioned, and the clear yearly value of the land or tenement is such as to give ten pounds or more for each occupier, two of such occupiers are entitled to be registered as electors; but no more are so entitled (unless they derived the property by descent, succession, marriage, marriage settlement, or devise, or) unless they are bonâ fide engaged as partners carrying on trade or business thereon, in any of which cases all may be registered, if the clear yearly value is sufficient to give ten pounds for each occupier (z).

(iii.) If a person has occupied different lands or tenements in your division [or county] of the requisite value in immediate succession during the said twelve months he is entitled in respect of the occupation thereof to be registered as an elector in the parish [or township] in which the last occupied land or tenement is situate (a).

[Household qualification.]

8.—(i.) A person entitled to be registered as a parliamentary elector in respect of a household qualification (b)—

(a) must on the 15th day of July next be, and for the whole twelve months immediately preceding that day (except the time (if any) not exceeding four months in the whole during which he has permitted the house to be occupied as a furnished house) have been an inhabitant occupier of some dwelling-house in your parish [or township], or of some part of a house separately occupied as a dwelling; and

(b) such person or some one else must during those twelve months have been rated to all poor rates made in respect of the said dwelling-house; and

(c) all sums due in respect of the said dwelling-house on account of any poor rate made and allowed during the twelve months immediately preceding the 5th day of January last must have been paid on or before the 20th day of July next.

(ii.) If two or more persons are joint occupiers of a dwelling-house no one of them is entitled to be registered as a parliamentary elector in respect of a household qualification in respect thereof, though, if the value is sufficient, one or more of them may be entitled under paragraph 7 above (c).

(iii.) If a person has occupied different dwelling-houses in your division [or county] in immediate succession during the said twelve months he is entitled in respect of the occupation thereof to be registered as a parliamentary elector in the parish [or township] in which the last occupied dwelling-house is situate (d).

(iv.) If a person inhabits a dwelling-house by virtue of an office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service, or employment, he is to be considered as an inhabitant occupier of that dwelling-house (e).

[Lodger qualification.]

9.—(i.) A person entitled to be registered as a parliamentary elector in respect of a lodger qualification (f)—

(a) must have claimed to be registered; and

(b) must have occupied separately as a lodger for the whole twelve months immediately preceding the 15th day of July next lodgings, being part of one and the same dwelling-house in your parish [or township], and being of a clear yearly value, if let unfurnished, of ten pounds or upwards; and

(z) *Ante*, p. 110.

(a) *Ante*, p. 108.

(b) *Ante*, pp. 111, 189.

(c) *Ante*, p. 221; N.B.—A lodger is not a joint occupier with his landlord, but the landlord is the sole occupier and may be registered as such—as to the lodger, see next paragraph of this precept.

(d) *Ante*, p. 192.

(e) *Ante*, p. 207.

(f) *Ante*, pp. 111, 226.

## Schedule 2.

(c) must have resided in such lodgings during the said twelve months.

(ii.) If two or more persons are joint lodgers, and the value of the lodgings is such as to give ten pounds or more for each lodger, two of such persons but no more are entitled to be registered as parliamentary electors (*g*).

(iii.) If a person has occupied different lodgings of the requisite value in the same house in immediate succession, he is entitled to be registered as a parliamentary elector in respect of the occupation thereof (*h*).

10. A person entitled to be registered as a county elector may be a man or a woman (*i*), but must be of full age and not subject to any legal incapacity, and must in all other respects be duly qualified (*k*) to be registered as a county elector, and must not at any time during the twelve months immediately preceding the 15th day of July next have received any union or parochial relief or other alms (*l*); but where a person has received for himself or herself or for any member of his or her family any medical or surgical assistance, or any medicine at the expense of any poor rate, he or she is not thereby deprived of his or her right to be registered, and medical or surgical assistance includes all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the medical officer of the union or parish at the expense of any poor rate (*m*).

11.—(i.) A person entitled to be registered as a county elector in respect of the old burgess qualification (*n*)—

(a) must on the 15th day of July next be, and during the whole of the twelve months immediately preceding that day have been an occupier of a house, warehouse, counting-house, shop, or other building in your parish [*or* township]; and

(b) must have resided during those twelve months in the administrative county or within seven miles thereof; and

(c) such person or some one else must during the said twelve months have been rated to all poor rates made in respect of the qualifying property; and

(d) all sums due in respect of the qualifying property on account of any poor rate made and allowed (*o*) during the twelve months immediately preceding the 5th day of January last (*p*), must have been paid on or before the 20th day of July next; and

(ii.) A person is entitled to be registered under the old burgess qualification notwithstanding that he has permitted his dwelling-house to be occupied as a furnished house by some other person for a time not exceeding four months, and during that time has not resided as above mentioned (*q*).

(*g*) *Ante*, p. 237.

(*h*) *Ante*, p. 232.

(*i*) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 63; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2, *ante*, pp. 506, 547.

(*k*) Notice specially that by the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11), four months absence in the performance of duty is not to disqualify any elector; see paragraph 13 (iii.), *post*.

(*l*) *Ante*, pp. 272—278.

(*m*) See also notes to paragraph 5 of this precept, *ante*, p. 605.

(*n*) *Ante*, p. 240. The name “old burgess qualification” is intended to show that this qualification is similar to the old qualification of burgesses in municipal borough before the introduction of the additional ten pounds occupation qualification under the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 3, *ante*, p. 547, and see next paragraph.

(*o*) If the county or borough rate is not levied with the poor rate, add after the word “allowed” the words “or any county [*or* borough] rate made.”

(*p*) But see *ante*, p. 248, and note (*a*) thereon.

(*q*) Municipal Voters Relief Act, 1885 (48 & 49 Vict. c. 9), applied to county electors by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2, *ante*, pp. 528, 547.

**Schedule 2.**

(iii.) If two or more persons are joint occupiers of property qualifying for the old burgess qualification, each such occupier is entitled to be registered (*r*).

[Ten pounds  
occupation  
burgess quali-  
fication.]

12.—(i.) A person entitled to be registered as a county elector in respect of the ten pounds occupation burgess qualification (*s*)—

- (a) must during the whole twelve months immediately preceding the 15th day of July have been an occupier as owner or tenant of some land or tenement in your parish [*or* township] of the clear yearly value of not less than ten pounds; and
- (b) must have resided in or within seven miles of the administrative county during six months immediately preceding the 15th day of July next; and
- (c) such person, or some one else, must during the said twelve months have been rated to all poor rates made in respect of such land or tenement; and
- (d) all sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the 5th day of January last, or on account of any assessed taxes (*t*) due before the said 5th day of January, must have been paid on or before the 20th day of July next.

(ii.) If two or more persons jointly are such occupiers as above mentioned, and the value of the land or tenement is such as to give ten pounds or more for each occupier, each of such occupiers is entitled to be registered as an elector.

13.—(i.) Parochial electors consist of parliamentary electors and county electors, but for the purpose of elections under the Local Government Act, 1894, *i.e.*, elections of parish councils, guardians, and district councils not being borough councils, a woman is not disqualified by marriage for being on the register of electors, but a husband and wife cannot be qualified in respect of the same property (*u*).

[Succession.]

(ii.) If a person has occupied in immediate succession during the twelve months immediately preceding the 15th day of July different premises in the administrative county which would qualify him for registration as a county elector, he is entitled, in respect of the occupation thereof, to be registered as a county elector in the parish [*or* township] in which the last occupied premises are situate (*v*).

(*r*) *Ante*, p. 249.

(*s*) *Ante*, p. 250. The name of this qualification is intended to distinguish it from the parliamentary ten pounds occupation qualification, in a county, from which it differs in the following points:—

- (i.) In requiring only one year's occupation instead of one year and a day.
- (ii.) In requiring residence as stated in sub-paragraph (b).
- (iii.) In requiring payment of assessed taxes as in sub-paragraph (c).
- (iv.) As to joint occupiers.

(*t*) During the month of July, overseers have a right, upon request, to inspect any tax assessment or duplicate for their parish, in custody of any assessor or collector of taxes, at any time between 10 a.m. and 4 p.m. on any day except Sunday. Assessors and collectors of taxes are bound to send in to the overseers, within two days after the 20th of July, a list of persons in arrear of assessed taxes payable on the 5th of January last. See Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 12; Parliamentary Elections Act, 1848 (11 & 12 Vict. c. 90). Overseers must keep this list open to inspection as described in paragraph 28 of this precept.

(*u*) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 43, *ante*, p. 578.

(*v*) This does not enable a person to be registered as a county elector who has occupied premises for the latter part of the qualifying period, situated in some part of the county, but not situate in a municipal borough, in immediate succession to other premises previously occupied by him and situated in the same administrative county, but within some part of a



## Schedule 2.

(iii.) A person is not disqualified from being registered in respect of a household qualification under paragraph (8), or of a lodger qualification under paragraph (9), or of an old burgess qualification under paragraph (11), or of a ten pounds occupation burgess qualification under paragraph (12), by reason only that during part of the twelve months ending on the 15th day of July not exceeding four months at any one time he has, in the performance of any duty arising from or incidental to any office, service, or employment held or undertaken by him, been absent from his dwelling-house or lodgings or not resided in or within the required distance from the county or borough (*x*).

14. A person who is entitled to be registered as a county elector in all respects except that of residence, and is resident beyond seven miles, but within fifteen miles, of the administrative county, is entitled to be on the non-resident list of persons entitled to be elected aldermen or councillors though not entitled to be on the county register (*y*). [Qualification as councillors.]

*Mode of making out Lists.*

15.—(i.) Each list and, where the list is made out in divisions, each division of each list must be made out in alphabetical order (*z*).

(ii.) If your parish [or township] is divided into, or forms part of, more than one voting area, that is to say, any polling district, electoral division, borough, county district, ward, or other area for which is held a separate election at which the register of electors is used, you must make out lists for each part which is in a separate voting area as if it were a separate parish (*a*).

16. In making out any list you are to state the surname and other name or names of each person at full length, the surname being placed first. [Entry of names, etc.]

17. In making out the list of claimants or persons objected to the surname and other names of every claimant or person objected to, with the place of his abode, the nature of his qualification, and either the locality or other description of the qualifying property, or the name of the occupying tenant (*b*), must be copied into the list from the claim or objection.

municipal borough within such county, and so of a burgess. By removing from inside to outside of a municipal borough during the qualifying period no vote can be gained, nor can a borough vote be gained by the reverse process, but in both cases the vote which might have been gained by continued occupation of the same premises is lost.

(*x*) Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11).

(*y*) *Ante*, p. 246. In the application of this paragraph to a parish not within a parliamentary borough, but within a municipal borough, the persons who are entitled under it to be on the non-resident list will be qualified to be elected county aldermen or councillors as well as aldermen or councillors for the borough. Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 75 (12).

(*z*) If in the case of a parish within an urban district (co-extensive with any electoral division or divisions of a parliamentary county) the county council has given directions for the lists to be made out according to the order in which the qualifying premises appear in the rate book, the officer issuing this precept must modify paragraph 15 (i.) accordingly.

(*a*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (e), *ante*, p. 548.

(*b*) The provision as to "the name of the occupying tenant" appears to have been introduced by an oversight. There is no statutory provision which warrants its introduction. The words were contained in the corresponding paragraph of Schedule 2 of the Registration Act, 1885, but that was because it applied to ownership electors, and in respect of such electors was warranted by 6 & 7 Vict. c. 18, s. 5. If there is an occupying tenant other than the claimant or person objected to (except of a furnished house for not more than four months), then, of course, the claimant or person objected to is not entitled to be registered.

**Schedule 2.**

18. In every other list the place of abode should be entered with the name (if any) of the street, lane, or other locality, and the number (if any) in such street, lane, or other locality, and such entry should be made in all cases in such a manner as will afford a full and sufficient address for a person entered, if a letter is addressed to him by post.

[Entry of nature of qualification.]

19.—(i.) In the case of occupation electors, the nature of the qualification should be entered as nearly as possible in the words of the statute conferring the franchise, for instance :—

- (a.) The nature of the fifty pounds rental qualification or ten pounds occupation qualification of a person should be stated thus, “tenement” (c) or “land,” or “land and tenement,” or, in the case of a joint occupation, “tenement (joint)” or “land (joint)” or, in the case of successive occupation, “tenement (successive)” or “land (successive)”;
- (b.) The nature of a household qualification should be stated thus, “dwelling-house,” or in the case of successive occupation, “dwelling-house (successive)”;
- (c.) The nature of the old burgess qualification should be stated thus, “house,” “warehouse,” “counting-house,” “chambers,” or as the case may be, with the addition of “joint” or “successive” if necessary.

(ii.) Where the same property constitutes both a ten pounds occupation qualification and also the old burgess qualification, the nature of the qualification should be stated by a description of the tenement thus, “house,” “shop,” “warehouse,” or “building,” or “chambers,” or as the case may be, or in the case of a joint occupation, “house (joint),” “shop (joint),” “warehouse (joint),” or as the case may be, or in the case of a successive occupation “shop (successive),” or as the case may be.

(iii.) Where the same property constitutes both a ten pounds occupation qualification, or the old burgess qualification, and also a household qualification, the nature of the qualification should be entered as “dwelling-house.”

(iv.) If the description indicates the nature of the qualification, as, for instance, if a ten pounds occupation qualification consists of a house and is entered as a dwelling-house, such description will be sufficient.

(v.) Any description of the nature of the qualification further than that above mentioned is superfluous and should not be given.

[Entry of qualifying property.]

20. The description of any qualifying property should specify the name and situation of that property, and for that purpose should state either the name (if any) of the street, lane, or other locality, and the number (if any) in such street, lane, or other locality, or the name of the occupying tenant (*d*); and the description of the qualifying property should in all cases be such as will afford full and sufficient means of identifying such property.

[Several qualifications.]

21.—(i.) Where several qualifications are possessed by the same person, the particulars respecting each qualification should be stated in the list.

(ii.) In the case of a list made out in divisions, where a person is entered in division one in respect of one qualification for parliamentary purposes, and in respect of another qualification for local government purposes, each such qualification should be distinguished in the list by a note to the effect that the qualification is for parliamentary purposes only, or for local government purposes only, as the case may be.

(c) Overseers and others should be careful not to use the word “tenement” in describing any qualification other than a fifty pounds or ten pounds occupation qualification. See *ante*, p. 331.

(d) See note (*u*), on preceding page.

22. The occupiers list (mentioned hereafter in paragraph 37, sub-paragraph (a), is to be made out in three divisions (*e*). Schedule 2.

Division one is to comprise the names of the persons entitled to be registered both as parliamentary electors (whether in respect of a fifty pounds rental, or ten pounds occupation, or household qualification) and as county electors (*f*).

Division two is to comprise the names of the persons entitled to be registered as parliamentary electors in respect of a fifty pounds rental, or ten pounds occupation, or household qualification, but not as county electors (*g*).

Division three is to comprise the names of the persons entitled to be registered as county electors, but not as parliamentary electors (*h*).

23. You should omit from the occupiers list mentioned in paragraph 37, sub-paragraph (a), of this precept, and from the non-resident list mentioned in sub-paragraph (c) of the same paragraph, the name of any person— [Omissions of dead and disqualified.]

(a) whom from the returns furnished by the registrar of births and deaths (*i*) or from your own knowledge you know to be dead; or

(b) who is not qualified by reason of the non-payment of rates; or

(c) who is disqualified by reason of having received parochial relief (*k*); or

(d) whose name is entered in the corrupt and illegal practices list (*m*).

24. In making out the old lodgers list (mentioned in paragraph 37, sub-paragraph (b), of this precept), if you have reason to believe that any person whose name is entered on that list is dead or is not entitled to be registered, you should make a note to that effect in the margin of the list (*n*). [Objections in old lodgers list.]

25. The registrars of births and deaths are required to send to you periodically returns of the names and residences of all male persons of full age dying within your parish [*or* township], and also as and when required by you of the names and residences of all women of full age dying within your parish [*or* township], and you must examine those returns to see whether any person who otherwise would appear in the list of electors is dead, and you are to pay the registrar, as part of your expenses connected with registration, a fee of twopence for each return, and a further fee of twopence for every death entered in such returns (*o*). [Registrar's returns.]

(*e*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 15 (2); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, pp. 484, 547.

(*f*) No woman, peer, or service occupier, may be entered in this division.

(*g*) This division will contain the names of service occupiers, fifty pounds occupiers, who are not qualified as county electors in respect of the same property, and ten pounds occupiers not also qualified for the local government franchise. See note (*s*) to paragraph 12 of this precept.

(*h*) This division will contain the names of women and peers who are occupiers of property qualifying them as county electors, and the names of the third and others of joint ten pounds occupiers of property not coming within the exceptions stated in paragraph 7 (ii.), of this precept.

(*i*) See *infra*, paragraph 25 of this precept.

(*k*) See *post*, paragraph 36 of this precept.

(*m*) Omit where there is no corrupt and illegal practices list. See *ante*, Instructions, paragraph 2.

(*n*) Parliamentary Registration Act, 1878 (41 & 42 Vict. c. 26) s. 22; Registration Act, 1885 (48 & 49 Vict. c. 15) s. 1, *ante*, pp. 487, 529.

(*o*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26, s. 11, *ante*, p. 482.

## Schedule 2.

*Publication and Inspection.*[Publication of  
lists, etc.]

26. The manner in which you are required to publish the lists, notices, and documents, directed by this precept to be published is as follows; (that is to say) you are to fix a copy thereof (each copy being first signed by you)—

- (a) on or near the outside of the outer door or of the outer wall near the door of every church and public chapel in your parish [or township], including chapels which do not belong to the Established Church; or
- (b) if there is no such church or chapel, then in some public or conspicuous situation in your parish [or township] (*p*); and
- (c) if your parish [or township] is wholly or partially situate in a borough or other urban district, then in or near any public or municipal or parochial office in your parish [or township], and (having first obtained the authority of the local postmaster, or if he refuses, of the Postmaster-General), in some public and conspicuous position in or near every post office and telegraph office occupied by or on behalf of the Postmaster-General (*q*).

27. Everything so published must remain there during a period including two consecutive Sundays at least next after the first day of publication, and if you find any list, notice, or other document published by you in pursuance of this precept to be destroyed, mutilated, defaced, or removed you are forthwith to place another to the same effect in its place (*r*).

[Inspection and  
delivery of  
copies.]

28. Where this precept directs you during any period to allow any copy of a list, notice, or other document to be open to public inspection, and to deliver copies thereof, you will permit such copy, list, notice, or other document to be perused by every person desirous of perusing it, at any time between the hours of 10 o'clock in the forenoon and 4 o'clock in the afternoon of any day, except Sunday, during the said period, without payment or demand of any fee; and you are also to deliver a written or printed copy of it, signed by you, to every person applying for the same during the said period, on payment of a price for such copy after the following rate (*s*):—

For any list or copy of a list containing any number of persons names—

	<i>s.</i>	<i>d.</i>
Not exceeding 100 names - - - - -	0	6
Exceeding 100 and not exceeding 200 - - - - -	1	0
Exceeding 200 and not exceeding 300 - - - - -	1	6
Exceeding 300 and not exceeding 400 - - - - -	2	0
Exceeding 400 - - - - -	2	6

29. You must allow any person who is registered as a parliamentary elector for your division [or county], or as a county elector in any parish [or township] in your administrative county, or is enrolled as a burgess of any borough in your administrative county, to inspect at all reasonable times, free of charge,—

(*p*) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 23, *ante*, p. 409. See also note (*h*) *ante*, p. 288.

(*q*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 9; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (1), (2), and (3) (c); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (d), *ante*, pp. 482, 529, 548.

(*r*) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 24, *ante*, p. 410.

(*s*) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), Schedule D., Table No. 1, *ante*, p. 436. The three divisions of the occupiers' list are not separate lists for the purposes of these charges. It will be the duty of the overseers to bring moneys received under this paragraph into their accounts to be laid before the revising barrister for his certificate at the court of revision. See 59 J. P. 601.



- (a) the books containing the poor rates made for your parish [*or township*] within the last two years, and to make a copy of or to take an extract from such books ; and
- (b) the returns of death sent to you by the registrars of births and deaths (*t*).

Schedule 2.

## PART II.

## THINGS TO BE DONE IN ORDER OF DATE.

*Notices and Inquiries.*

30.—(i.) In the months of April and May, or one of them, you are to inquire or ascertain with respect to all property in your parish [*or township*] which comprises any dwelling-house (including under the term any part of a house separately occupied as a dwelling) whether any man, other than the owner or other person rated or liable to be rated in respect of such property, is entitled to be registered as a parliamentary elector in respect of a household qualification by reason of his being an inhabitant occupier of such dwelling-house, and you are to enter in the rate book in a separate column, added for the purpose, the name of every man so entitled, and the situation or description of the dwelling-house in respect of which he is entitled.

(ii.) If any property, whether by reason of belonging to the Crown or otherwise, is not rated, you must act under this paragraph in the same manner as if it were rated (*u*).

31. For the purpose of your inquiry you are at liberty to serve on any person who is the occupier or rated or liable to be rated in respect of any property, or on some agent of such person concerned in the management of such property, a requisition according to the form marked A. among the forms sent herewith. You may serve the requisition by giving it to the person by whom it is to be observed, or by leaving it at his last or usual place of abode or with some person on the property, and in case no such person can be found, then by fixing the requisition on some conspicuous part of the property ; and where the property is occupied by a company or other body of persons you may serve the requisition on the secretary or agent of the company or body of persons ; and if the property belongs to the Crown or is not rated, you may serve it on the chief local officer having the superintendence or control of the property. A person who fails to comply with the requisition is liable, on summary conviction, to a fine of forty shillings (*x*).

32. In making the inquiries directed by the last two paragraphs you will observe the following directions :—

(a.) If you know that any man who is not rated has occupied a dwelling-house since the 15th day of July last, you should enter the name of that man in the rate book as mentioned in paragraph 30 of this precept, without serving any requisition on the occupier or other person rated ;

(b.) You should not serve the requisition on the occupier or owner of any property unless you have reasonable ground to believe that there is some inhabitant occupier of such property, who is entitled to vote, besides the person on whom the requisition is served. [June 20th.]

33. On or before the 20th day of June next you are to publish, in manner directed by paragraph 26 of this precept, a notice signed by you according to the form marked B., among the forms sent herewith (*y*).

(*t*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), ss. 11, 13 ; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 ; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, pp. 482, 484, 529, 547.

(*u*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 9 (2), (9), *ante*, pp. 525, 526.

(*x*) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 9 (3), (4), *ante*, pp. 525, 526. See also note (*y*), *ante*, p. 288.

(*y*) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 11 ; Registration Act, 1885 (48 & 49 Vict. c. 15, s. 1), *ante*, pp. 405, 529.

**Schedule 2.** 34.—(i.) Where any sum on account of a poor rate made and allowed, during the twelve months next before the 5th day of January last is on the 1st day of June next due in respect of any property in your parish [or township] capable of conferring the parliamentary franchise in respect of the ten pounds occupation or household qualification, or of conferring the local government franchise in respect of the old burgess qualification or ten pounds occupation burgess qualification, you are, on or before the 20th day of June next, to give to every occupier of that property a notice (in the Form C. (No. 1) sent herewith), by delivering it to such occupier, or leaving it at his last or usual place of abode, or with some person on the property in respect of which the rate is payable, and in case no such person can be found, then by affixing the notice upon some conspicuous part of such property.

[June 20th.]

(ii.) You need not give this notice if the rate has been previously duly demanded of the occupier by a demand note served in the like manner as the last-mentioned notice, but you must serve the notice on every occupier of that property who will, if the rate is paid, be entitled to be registered as an elector in respect of the occupation thereof (z).

(iii.) Where any sum on account of county rate made during the twelve months next before the 5th day of January last is on the 1st day of June next due in respect of any property in your parish [or township] capable of conferring the local government franchise in respect of the old burgess qualification, the notice must further state that omission to pay the county rate will disqualify from registration as a county elector in respect of the old burgess qualification (a).

35.—(i.) If the sum due on account of poor rate as above mentioned in respect of any property is not paid on or before the 20th day of July next, all occupiers of that property are disqualified from being entered in the occupiers list of electors; and if any sum due on account of county rate as above mentioned in respect of any property is not paid on or before the 20th day of July next, all occupiers of that property are disqualified from being entered in any list of county electors in respect of the old burgess qualification (b).

[July 22nd.]

(ii.) On or before the 22nd day of July next you are to make out (in the Form C. (No. 2) sent herewith) a list containing the name of every person so disqualified; and you are to keep that list and, during the first fourteen days after the said 22nd day of July, are to allow it to be open to public inspection, and to deliver copies thereof in accordance with paragraph 28 of this precept (c).

[July 31st.]

36. On or before the last day of July next you are to ascertain from the relieving officer acting for your parish [or township] the names of all persons who are disqualified from being inserted in the lists of occupation electors for your parish [or township] by reason of having received parochial relief, and the relieving officer upon your application is bound to

(z) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 28, *ante*, p. 450, extended to counties, Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, *ante*, p. 529; applied as to county electors, 51 & 52 Vict. c. 10, s. 4, *ante*, p. 547.

(a) If the county rate, or where the parish or township is in a municipal borough, the borough rate is levied as part of the poor rate, the paragraph relating to the county rate or borough rate should be omitted.

(b) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 9; County Electors Act (51 & 52 Vict. c. 10), s. 3, *ante*, pp. 499, 547, and see p. 248, note (a). If the county rate, or where the parish or township is in a municipal borough, the borough rate is levied as part of the poor rate, the portion of the paragraph relating to the county rate or borough rate should be omitted.

(c) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 29, *ante*, p. 450; extended to counties, Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, *ante*, p. 529.

produce to you at such place in your parish [or township] and at such times as are required by you the books in his possession, containing the names of such persons (*d*). Schedule 2.

*List of Electors.*

37.—(i.) On or before the last day of July next you are to make out in manner directed by paragraphs 15 to 24 of this precept the following lists of electors :—

- (a.) The occupiers list, that is to say, a list (in the Form D. (No. 1) sent herewith) of all persons entitled by reason of the occupation of property situate wholly or partly within your parish [or township] to be registered as parliamentary electors in respect of a fifty pounds rental, a ten pounds occupation, or a household qualification as defined in paragraphs 6, 7 and 8 of this precept, or to be registered as county electors (*e*);
- (b.) The old lodgers list, that is to say, a list (in the Form D. (No. 2) sent herewith) of all persons who, being on the register of electors now in force for your division [or county] in respect of residence in lodgings within your parish [or township] have, on or before the 25th day of July next, given or caused to be given to you, or any one of you, claims to have their names inserted in the lists of electors in respect of residence in the same lodgings (*f*); and
- (c.) The non-resident list, that is to say, a list (in the Form G. sent herewith) of all persons who are entitled, in respect of the occupation of property within your parish [or township], to be elected aldermen or councillors of your administrative county, but are not entitled to be on the county register thereof (*g*).

(ii.) You must not omit any person from the occupiers list on the ground that he is registered as a parliamentary elector in respect of the ownership of property, whether of freehold, leasehold, or copyhold tenure (*h*).

38. On or before the 1st day of August next you are to sign the lists mentioned in paragraph 37 of this precept, and to cause a sufficient number of copies of such lists to be written or printed, and to publish the said lists signed by you in your parish [or township] in manner directed by paragraph 26 of this precept. [August 1st.]

39. You are also to publish the corrupt and illegal practices list which is sent herewith, at the same time and in the same manner as you publish the occupiers and old lodgers lists (*i*).

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(*d*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 12, *ante*, p. 483, extended to counties; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, *ante*, p. 529.

(*e*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 15; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, pp. 484, 547.

(*f*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 22; extended to counties, Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, *ante*, pp. 487, 529. The overseers should be careful to make out this list *from the claims*, and not from the register in force for the time being. The claim is an essential part of the qualification, and the overseers should be most particular *not* to insert the name of any old lodger who has not duly made a fresh claim. See *ante*, p. 235.

(*g*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 12, *ante*, p. 553, and see *ante*, paragraph 14 of this precept.

(*h*) This last sentence is new, and should be carefully observed by the overseers. The object is to preserve the qualification for voting as a parochial elector.

(*i*) If there is no corrupt and illegal practices list, the paragraph and words relating to it must be omitted. See Instructions, paragraph 2, *ante*, and see Corrupt and Illegal Practices Act, 1883 (46 & 47 Vict. c. 51), s. 39; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 24.



**Schedule 2.**

40.—(i.) You are to keep a written or printed copy of each of the lists mentioned in paragraph 37 of this precept, signed by you (*i*), and also of the corrupt and illegal practices list (*j*), and during the first fourteen days after the publication thereof are to allow them to be open to public inspection, and to deliver copies thereof in accordance with paragraph 28 of this precept.

(ii.) You are also to keep the list of defaulters in the payment of assessed taxes sent to you by the collector of taxes (*j*), and allow it during the first fourteen days after the first publication of the lists of voters to be open for public inspection in manner directed by paragraph 28 of this precept.

*Objections and Claims.*

[August 25th.]

41. On or before the 25th day of August next (*k*) you are also to make out (in accordance with paragraphs 15 to 24 of this precept and according to the Form L. sent herewith) occupiers and lodgers objection lists, that is to say, lists containing the name of every person against whom a notice of objection (*l*) has been given to you, or any one of you, on or before the 20th day of August next, as not being entitled to have his name retained in any of the lists mentioned in paragraph 37 of this precept, giving in separate lists the objections made to—

- (a) any person on the occupiers list, both as a parliamentary and a county elector ;
- (b) any person on the occupiers list as a parliamentary elector only ;
- (c) any person on the old lodgers list ;
- (d) any person on the occupiers list as a county elector only ;
- (e) any person on the non-resident list.

[August 25th.]

42. On or before the 25th day of August next you are to make out (in accordance with paragraphs 15 to 24 of this precept and according to the Form K. sent herewith) occupiers and lodgers claim lists, that is to say, lists containing the name of every person who has given or caused to be given to you, or any one of you, on or before the 20th day of August next, notice of his claim (*m*) to be registered in any of the lists mentioned in paragraph 37 of this precept for your parish [or township], or in the parochial electors list, making separate lists of—

- (a) persons claiming insertion in the occupiers list both as parliamentary and as county electors ;
- (b) persons claiming insertion in the occupiers list as parliamentary electors only ;
- (c) persons claiming insertion in a list of parliamentary electors as lodgers, but not comprised in the old lodgers list ;
- (d) persons claiming insertion in the occupiers list as county electors only ;
- (e) persons claiming insertion in the parochial electors list in respect of an occupation qualification ;
- (f) persons claiming insertion in the non-resident list.

[August 25th.]

43. On or before the 25th day of August next you are to sign every list made by you in pursuance of paragraphs 41 and 42 of this precept and publish in the manner directed by paragraph 26 of this precept a copy of every list so signed.

[August 25th.]

44. You are to keep a copy of each such list signed by you, and during the fourteen days next after the 25th day of August next are to allow the same, and also the original notices of claims and objections, to be open to public inspection, and to deliver copies thereof, in accordance with paragraph 28 of this precept.

(i) See note (*i*) on preceding page.

(j) See *ante*, note (*t*) to paragraph 12 of this precept.

(k) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 3 (1); County Electors Act, 1888 (51 Vict. c. 10), s. 4, *ante*, pp. 529, 547.

(l) See Form I., *post*.

(m) See Form H., *post*.



45. On or before the 25th day of August next you are to deliver to **Schedule 2.**  
me (n)—

- (a) two copies of the occupiers and old lodger lists ;
- (b) a copy of each of the occupiers and lodgers objection and claim lists, and the parochial electors claim lists so made out and signed by you as aforesaid ; and
- (c) two copies of the non-resident list.

46. You are also (o) to make lists of persons claiming to be omitted from the corrupt and illegal practices list (sent herewith), and of persons objected to on the ground that they are omitted from the corrupt and illegal practices list, and you will deal with such lists, claims, and objections in the same manner in all respects as is directed by paragraphs 41 to 45 of this precept respecting claims and objections in relation to the lists therein mentioned, but any list made under this paragraph must be kept separate from any other list (p).

*Attendance upon Revising Barrister.*

47.—(i.) You are to attend the court to be holden by the [revising barrister for the revision of the lists of electors for your parish [or township]; and notice will be sent you of the time and place of holding such court.

(ii.) You are, at such court, to deliver to the revising barrister holding it the following documents (*q*):—

- (a) all the original notices of claims and objections received by you ;
- (b) the occupiers and old lodgers lists, and the non-resident list ;
- (c) the occupiers and lodgers objection and claim lists, and the parochial electors claim lists made out and signed by you ; and
- (d) all notices of the withdrawal or revival of objections received by you,

and you are there to produce the rate books of your parish [or township] containing the poor rates made and allowed during the period between the 5th day of January in last year and the 15th day of July next (r).

If you fail to comply with this precept you will be liable to the penalties in that case provided (s).

Given under my hand this                      day of                      .  
(Signed)                      A. B.

Clerk of the county council of  
[or Town Clerk of the municipal borough of .]

(n) If the precept is sent by a town clerk, add after "deliver to me" the words "and to the clerk of the council of the county of \_\_\_\_\_." Registration Act, 1885 (48 & 49 Vict. c. 15), s. 6, (2), (c.); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (1), (a), *ante*, pp. 533, 548.

(o) Omit this paragraph if there is no corrupt or illegal practices list.

(p) Corrupt and Illegal Practices Act, 1883 (46 & 47 Vict. c. 51), s. 39 ;  
Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 &  
48 Vict. c. 70), s. 24.

(q) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 35; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 22; extended to lists, etc. of parliamentary electors in counties, Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1; and as to lists, etc. of county electors, County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, pp. 413, 487, 529, 547; as to production and allowance of overseers' accounts of receipts and expenses, see *ante*, p. 291.

(v) Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 28, *ante*, p. 458.

(s) For every wilful neglect or breach of duty the revising barrister may fine an overseer any sum not exceeding five pounds nor less than twenty shillings; and besides the overseer may be liable to an action for damages

## Schedule 2. FORMS FOR OCCUPATION ELECTORS IN PARISH NOT IN A PARLIAMENTARY BOROUGH.

### FORM A.

#### Form of Requisition by Overseers requiring Names of Inhabitant Occupiers (t).

To *E. F.*

You are hereby required to fill up accurately the under-written form.  
If this form is not returned to us [*or me*], accurately filled up, within twenty-one days after the service hereof, you will be liable, under the Representation of the People Act, 1884, to a penalty not exceeding forty shillings.

Dated this            day of            18   .

*A. B.*

*C. D.*

Overseers [*or assistant overseer*] for the parish [*or township*] of

#### Form of Return.

1.	2.	3.
Property in respect of which the Person making the Return is Rated [ <i>or liable to be Rated, or Occupier.</i> ]	Situation or Description of every Dwelling-house, as defined by the Representation of the People Acts, forming part of the Property in the First Column.	Surname and other Name of every man who was on the fifteenth day of July last, and has been up to the date of the return, an Inhabitant Occupier of any Dwelling-house in the Second Column.

I declare that the above is a true and complete return.

(Signed) *E. F.*

Dated the            day of            18   .

NOTE.—The description of the property in the first column should be a copy from the rate book, and should be filled in by the overseers and if it is a house numbered in a street should specify the street and number.

Such of the following instructions as are suitable should be annexed to the form, with such alterations, if any, as the overseers think necessary for adapting them to the circumstances of the parish or of the property to which the notice refers.

#### INSTRUCTIONS FOR FILLING UP A FORM.

*Instructions where Property consists of several Buildings: for instance, Cottages let by the Owner.*

(1) In the second column insert “cottage in            Lane,” or otherwise describe its locality.

at the suit of the party aggrieved, Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 51, 97; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 29; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1; but overseers are not liable to indictment, *ante*, p. 290.

(t) *Ante*, p. 613, paragraph 31 of this precept.

## Schedule 2.

(2) In the third column insert, opposite to the description of the cottage in the second column, the name of the man who now inhabits it, and has inhabited it since the fifteenth day of July last.

(3) If it has not been so inhabited state so, or omit the cottage from the second column.

(4) The head of the family alone is considered to be the occupier.

(5) The temporary absence of the occupier in the performance of any duty does not disqualify him for being registered.

*Instructions in case of what is commonly called the Service Franchise.*

(5) The dwelling-house in the second column may be either—

(a.) a separate house—for example, a schoolmaster's house; or

(b.) a part of a dwelling-house separately occupied as a dwelling—for example, a room or rooms over a stable, or caretaker's rooms in an office.

(6) If it is a separate house, insert in the second column, "house in Road," or otherwise describe its locality.

(7) If it is a part of a dwelling-house, insert in the second column "rooms over stable," "basement of office," "rooms over shop," or otherwise specify the locality of the room or rooms.

(8) In the third column insert, opposite to the description of the dwelling-house in the second column, the name of the man who now inhabits it, and has inhabited it since the fifteenth day of July last.

(9) If it has not been so inhabited state so, or omit the dwelling-house from the second column.

(10) In filling up the return it must be recollected that, under the Representation of the People Acts,—

(a.) In the case of a man who inhabits by reason of any office, service, or employment, if the same house is inhabited by any person under whom such man serves in his office, service, or employment, such man is not considered a separate inhabitant occupier; for example, a butler, occupying rooms in his master's house is not such an occupier, although, if he occupied rooms over a detached building, such as a laundry, he might be such an occupier;

(b.) The head of the family alone is considered to be the occupier;

(c.) The temporary absence of the occupier in the performance of any duty does not disqualify him for being registered.

*Instructions in the case of a House let in separate Tenements.*

(11) The dwelling-house in the second column may be any room or rooms in the house which are separately occupied as a dwelling.

(12) Insert in the third column the position of the room or rooms occupied; for example, "first floor, front room."

(13) In the third column insert, opposite to the description of the room or rooms in the second column, the name of the man who now inhabits it or them, and has so inhabited since the fifteenth day of July last.

(14) If any room or rooms have not been so inhabited, state so, or omit the room or rooms from the second column.

(15) In filling up the return it must be recollected that, under the Representation of the People Acts,—

(a.) A man who occupies separately any room or rooms in a house must be entered, although he is entitled to the joint use of some other part of the house; for example, a man occupying separately the first floor front rooms, and having joint use of a wash-house, must be entered;

(b.) The head of the family alone is considered to be the occupier;

(c.) The temporary absence of the occupier in the performance of any duty does not disqualify him for being registered.

**Schedule 2.** (16) If the landlord of a house let out in separate tenements lives in the house, he must not return the names of the occupiers of tenements in that house.

## FORM B.

Notice as to Rates to be published by the Overseers (*u*).

[ Parish [or Township] of  
division of the] county of } We hereby give notice that no  
Administrative County [or Municipal } person will be entitled to have  
Borough] of } his or her name inserted on  
to wit. } any list of electors now about  
to be made in respect of the  
occupation of any premises situate wholly or partly within this parish [or  
township], otherwise than as lodgings, unless all sums which have become  
due in respect of those premises on account of any poor rate made and  
allowed (x) during the twelve calendar months next preceding the fifth day  
of January last past have been duly paid on or before the twentieth day of  
July next; or to have his or her name inserted in any such list as a county  
elector [or burgess] under the ten pounds occupation burgess qualification  
in respect of the occupation of any premises situate as aforesaid, unless  
also all assessed taxes due in respect of those premises previously to the  
fifth day of January last past have been duly paid on or before the  
twentieth day of July next.

Dated the \_\_\_\_\_ day of June, 18 \_\_\_\_.

(Signed) A. B. } Overseers of the above parish [or  
C. D. { township.]

## FORM C.

No. 1.—Notice as to Rates to be served by Overseers (*y*).

Parish [or Township] of \_\_\_\_\_  
 To *A.B.* \_\_\_\_\_  
 [ \_\_\_\_\_ ] division of the \_\_\_\_\_ county of \_\_\_\_\_  
 Administrative County [or Municipal Borough] of \_\_\_\_\_  
 Take notice that you will not be entitled to have your name inserted in  
 the list of electors now about to be made as occupier of the premises in

(u) *Ante*, p. 613, paragraph 33 of this precept; Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18) s. 11; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, *ante*, pp. 405, 529.

(4) A 45 Vict. c. 19, s. 1, *ante*, pp. 408, 428.

(5) Where a county [or borough] rate is levied separately and not as part of the poor rate, the form must be altered accordingly, so as to state that omission to pay the county [or borough] rate will disqualify from registration as a county elector [or enrolment as a Burgess] in respect of the old Burgess qualification as well as the non-payment of the poor rate. This alteration can be effected by adding the words "or any county [or borough] rate made" immediately after the words "any poor rate made and allowed."

(y) *Ante*, p. 614, paragraph 34 of this precept; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 28; Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 10; Registration Act, 1885 (48 & 49 Vict. c. 15) s. 1; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, pp. 450, 529, 547. Where a county [*or borough*] rate is levied separately and not as part of the poor rate, the form must be altered accordingly, so as to state that omission to pay the county [*or borough*] rate will disqualify from registration as a county elector [*or enrolment as a burgess*] in respect of the old burgess qualification as well as the non-payment of the poor rate. This alteration can be effected by inserting the words "and any county [*or borough*] rate made" immediately after the words "any poor rate made and allowed."



your occupation in \_\_\_\_\_ unless on or before the twentieth day of July **Schedule 2.**  
 next all sums due in respect of those premises on account of any poor rate  
 made and allowed during the twelve calendar months next preceding the  
 fifth day of January last, amounting to £ \_\_\_\_\_, are duly paid.

Dated the \_\_\_\_\_ day of June 18 \_\_\_\_.  
 (Signed) *C.D.* } Overseers of the above  
*E.F.* } parish [or township].

**No. 2.—List of Names of Persons (:) Disqualified for being Registered  
 by Non-payment of the Rates due in respect of the Premises  
 named herein.**

Parish [or Township] of \_\_\_\_\_.

Names of persons in full, Surname being first.	Place of Abode.	Premises.	Persons actually rated in respect of Premises.

**FORM D.**

**No. 1.—Occupiers List (a).**

Parish [or Township] of \_\_\_\_\_

List of the persons entitled to be registered as parliamentary electors for  
 the [\_\_\_\_\_ division of the] county of \_\_\_\_\_ and the persons entitled to be  
 registered as county electors for the administrative county [or enrolled as  
 burgesses of the borough] of \_\_\_\_\_ in respect of the occupation of property  
 situate wholly or partly within this parish [or township] otherwise than as  
 lodgings.

*Division 1. Persons entitled to be Registered in respect of the occupation  
 aforesaid both as Parliamentary Electors and as County Electors [or  
 Burgesses].*

1. Names of Electors in full, Surname being first.	2. Place of Abode.	3. Nature of Qualification.	4. Description of Qualifying Property.

(:) *Ante*, p. 614, paragraph 35 of this precept: Representation of the  
 People Act, 1867 (30 & 31 Vict. c. 102), s. 29; Parliamentary and Municipal  
 Registration Act, 1878 (41 & 42 Vict. c. 26), s. 10; Registration Act, 1885  
 (48 & 49 Vict. c. 15), s. 1; County Electors Act, 1888 (51 & 52 Vict.  
 c. 10), s. 4.

(a) *Ante*, pp. 610, 611, 615, paragraphs 37 (a), 21, 22, and 23 of this pre-  
 cept; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict.  
 c. 26), s. 15; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4. N.B.—This  
 list does not contain the names of any parliamentary electors except those

**Schedule 2.** *Division 2. Persons entitled to be Registered in respect of the occupation aforesaid as Parliamentary Electors, but not as County Electors [or Burgesses].*

1. Names of Electors in full, Surname being first.	2. Place of Abode.	3. Nature of Qualification.	4. Description of Qualifying Property.

*Division 3. Persons entitled to be Registered in respect of the occupation aforesaid as County Electors [or Burgesses], but not as Parliamentary Electors.*

1. Names of Electors in full, Surname being first.	2. Place of Abode.	3. Nature of Qualification.	4. Description of Qualifying Property.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].

FORM D.

**No. 2.—Old Lodgers List (b).**

Parish [or Township] of .

List of the persons who being on the register of electors now in force for the [ division of the] county of in respect of residence in lodgings within the above parish [or township] claim, in respect of residence in the same lodgings, to have their names inserted in the list of electors for the said [division or] county.

Names of Claimants in full, Surname being first.	Description of Rooms occupied, and whether Furnished or not.	Street, Lane, or other Place, and Number, if any, of House in which Lodgings are situate.	Name and Address of Landlord or other Person to whom Rent is Paid.	Margin for Objections by Overseers.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].

entitled in respect of a household or 10% occupation qualification, or of 50% rental qualification reserved by s. 10 of the Representation of the People Act, 1884.

(b) *Ante*, pp. 611, 615, paragraph 37 (b), and 24 of this precept. The particulars in this list should be filled in from the claims. Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 22; Registration Act, 1885 (48 & 49 Vict. c. 15), ss. 1, 2, *ante*, pp. 487, 529.

## FORM G.

## Schedule 2.

## Non-Resident List (c).

Parish [or Township] of .

List of the persons who are entitled to be elected aldermen or councillors of the administrative county [or borough] of . in respect of the occupation within the above parish [or township] of any property, but who are not entitled to be on the county register of that administrative county [or burgess roll of that borough].

1. Names of Persons in full, surname being first.	2. Place of Abode.	3. Nature of Qualification.	4. Description of Qualifying Property.

(Signed) A.B. } Overseers of the above parish  
C.D. } [or township].

## FORM H.

NOTICE of CLAIM in respect of the OCCUPATION FRANCHISE (d).

## No. 1.—Parliamentary and Local Government (other than Lodgers).

To the overseers of the parish [or township] of .

I claim to have my name inserted in the lists for your parish [or township] of the parliamentary electors for [the parliamentary division of] the county of . and of county electors for the administrative county [or burgesses of the borough] of . [or to have my name entered in the parochial electors list for your parish [or township]] in respect of the qualification named below [and to have my name omitted from the corrupt and illegal practices list].

Name of Claimant in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

Dated . . . day of . . . 18 . . .

(Signed) A.B.

NOTE.—If the claim is to be registered as a parliamentary elector only, or as a county elector [or burgess] only, or only to be entered in the parochial electors list, the form must be altered accordingly.

(c) *Ante*, p. 615, paragraph 37 (c) of this precept; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 12; Local Government Act, 1888 (51 & 52 Vict. c. 41), ss. 76 (6), 77, *ante*, pp. 553, 563.

(d) *Ante*, pp. 294, 616, paragraph 42 of this precept; Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 15; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, pp. 406, 529, 547.

## Schedule 2.

## No. 2.—Lodgers (e).

To the overseers of the parish [or township] of  
 I claim to have my name inserted in the list of electors in your parish  
 [or township] for the [            division of the ] county of            in respect of  
 the qualification named below.

Name of Claimant in full, Surname being first.	Description of Rooms occupied and whether Furnished or not.	Street, Lane, or other Place, and Number (if any) of House in which Lodgings situate.	Amount of Rent paid.	Name and Address of Landlord or other Person to whom Rent is paid.
Stevens, John William.	Two rooms, first floor, furnished.	51, Brick Street -	16s. a week - -	William Johnson, 51, Brick Street.

I hereby declare that I have during the twelve calendar months immediately preceding the fifteenth day of July in this year† (except during the period between the       day of       and the       day of       when I was absent in the performance of [*here set out the duty which caused the absence*])† occupied as sole tenant [or as joint tenant with       ], and resided in, the above-mentioned lodgings, and that those lodgings are of a clear yearly value, if let unfurnished, of ten [or twenty] pounds or upwards† and I hereby declare that I am on the register of electors for the said division [or county] in respect of the same lodgings as above mentioned, and I desire to have my name inserted in the old lodgers list† (f).

Dated the       day of       18       .  
 (Signed)       A.B. (the Claimant).

I, the undersigned hereby declare that I have witnessed the above signature of the above-named claimant at the date stated above, and that I believe the above claim to be correct.

Dated the       day of       18 (g).  
 (Signed)       C.D. of  
 [*state residence and calling of witness*].

*Note.*—If the claim is in respect of different rooms successively occupied as lodgings in the same house, the notice of claim must specify each room or set of rooms so occupied.

If the claimant is on the register in respect of the same lodgings, and desires to have his name inserted in the old lodgers list published on or before the first day of August he must send in his claim on or before the twenty-fifth day of July.

In any other case he must send it in after the last day of July, and on or before the twentieth day of August.

If there are two joint lodgers, the yearly value of the lodgings must be twenty pounds or upwards.

If a lodger during any part of the qualifying period not exceeding four months at any one time has, in the performance of any duty arising from

(e) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 30; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, *ante*, pp. 451, 529.

(f) Omit the words between crosses if they are not applicable. As to when they are applicable, see Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11), *ante*, p. 568.

(g) Be careful to fill in both the dates left blank in this form, above the signature of the claimant and above the signature of the witness. These dates should be filled in by the claimant and witness at the time they sign the claim and attestation respectively. See *ante*, p. 235.



or incidental to any office, service, or employment held or undertaken by him, been absent from his lodgings although he retained them in his occupation, he is entitled to be registered as if he had inhabited his lodgings during that period. [Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11).] **Schedule 2.**

## FORM I.

FORM OF NOTICE OF OBJECTION IN RESPECT OF THE OCCUPATION  
FRANCHISE (*h*).**No. 1.—Notice of Objection to be given to Overseers (*i*).**

To the overseers of the parish [or township] of .

I hereby give you notice that I object to the name of being retained on [division of] the list of electors for your parish [or township] as a parliamentary elector for [the parliamentary division of] the county of and as a county elector for the administrative county [or burgess of the borough] of [and to the omission of the said name from the corrupt and illegal practices list].

Dated the day of 18

(Signed) *A. B.* [*place of abode*] on the list of parliamentary electors [and county electors or burgesses] for the parish [or township] of .

**No. 2.—Notice of Objection to be given to Person objected to (*k*).**

To

I hereby give you notice that I object to your name being retained on [division of] the list of electors for the parish [or township] of as a parliamentary elector for [the parliamentary division of] the county of and as a county elector for the administrative county [or burgess of the borough] of [and to the omission of your name from the corrupt and illegal practices list] on the following grounds (*l*), viz. :

1. That [*e.g.*, you have not occupied for twelve months to July 15th].
2. That
- 3.

Dated the day of 18 (*m*).

(Signed) *A. B.* of [*place of abode*] (*n*) on the list of parliamentary electors [and county electors or burgesses] for the parish [or township] of (*o*).

**NOTE.**—(*a*.) The notice of objection in each of the above two cases, Nos. 1 and 2, should, if there is more than one list, specify the list, and if the list referred to is made out in divisions, should specify the division to which the objection refers; and if the list contains two or more persons of the same name, should distinguish the person intended to be objected to (*p*).

(*b*.) If the notice refers to division one of the occupiers list, the reference to a county elector [or burgess] may be inserted, but if the notice refers to division two of the occupiers list or to the lodgers list, the reference to a county elector [or burgess] should be omitted, and if the notice refers to division three of the occupiers list, the reference to a parliamentary elector should be omitted.

(*h*) *Ante*, p. 616, paragraph 41 of this precept; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4.

(*i*) *Ante*, p. 296.

(*k*) *Ante*, p. 298.

(*l*) *Ante*, pp. 298, 299.

(*m*) *Ante*, p. 303.

(*n*) *Ante*, p. 303.

(*o*) *Ante*, p. 305.

(*p*) *Ante*, pp. 299—303.

**Schedule 2.** (c.) If the objection is to a parliamentary elector, the objector must sign himself as being on the list of parliamentary electors; if the objection is to a county elector [or burgess], the objector must sign himself as being on the list of county electors [or burgesses]; and if the objection is to a person as both parliamentary elector and county elector [or burgess], the objector must sign himself as being on the lists as both.

FORM K.

LIST of CLAIMANTS in respect of the OCCUPATION FRANCHISE to be published by the Overseers (q).

**No. 1.—List of Occupier Claimants (Parliamentary and Local Government) (r).**

Parish [or township] of .

The following persons claim to have their names inserted in division one of the occupiers list of electors in respect of the occupation of property in this parish [or township] otherwise than as lodgings.

Name of Claimant in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) A. B. } Overseers for the above  
C. D. } parish [or township.]

**NOTE.**—Form No. 1 applies to persons who claim to be entered in division one of the occupiers list, both as parliamentary electors and as county electors [or burgesses].

Any claim to be omitted from the corrupt and illegal practices list must be added to the foregoing list of claimants.

A copy of the claim must be entered in this form.

**No. 2.—List of Occupier Claimants (Parliamentary) (s).**

Parish [or township] of .

The following persons claim to have their names inserted as electors in division two of the occupiers list of electors in respect of the occupation of property in this parish [or township] otherwise than as lodgings.

Name of Claimant in full, Surname being first.	Place of Abode	Nature of Qualification.	Description of Qualifying Property.

(Signed) A. B. } Overseers of the above parish  
C. D. } or township.]

(q) *Ante*, p. 616, paragraph 42 of this precept.

(r) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4. Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

(s) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

NOTE.—Form No. 2 applies to claims by persons to be inserted in **Schedule 2.** division two of the occupiers list as parliamentary electors only.

Any claim to be omitted from the corrupt and illegal practices list must be added to the foregoing list of claimants.

A copy of the claim must be entered in this form.

**No. 3.—List of Lodger Claimants (Parliamentary) (t).**

Parish [or township] of .

The following persons claim as lodgers in this parish [or township] to have their names inserted in the lists of electors for the [ division of the] county of .

Name of Claimant in full, Surname being first.	Description of Rooms occupied, and whether Furnished or not.	Street, Lane, or other place and Number (if any) of House in which Lodgings are situate.	Amount of Rent paid.	Name and Address of Landlord or other Person to whom Rent is paid.

(Signed) *A. B.* } Overseers of the above parish  
*C. D.* } [or township].

NOTE.—A copy of the claim must be entered in this form.

**No. 4.—List of Claimants (Local Government) (u).**

Parish [or township] of .

The following persons claim to have their names inserted in division three of the occupiers list of electors in respect of the occupation of property in this parish [or township.]

Name of Claimant in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) *A. B.* } Overseers of the above parish  
*C. D.* } [or township].

NOTE.—Form No. 4 applies to persons who claim to be entered in division three of the occupiers list as county electors [or burgesses] only.

Any claim to be omitted from the corrupt and illegal practices list must be added to the above list.

A copy of the claim must be entered in this form.

(t) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 30 (2); Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 20; Registration Act, 1885 (48 & 49 Vict. c. 15), ss. 1, 2.

(u) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4.

## Schedule 2.

No. 5.—List of Claimants (Parochial Electors List) (*x*).Parish [*or* township] of .

The following persons claim to have their names entered in the parochial electors list for this parish [*or* township].

Name of Claimant in full Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) *A. B.* } Overseers of the above parish  
*C. D.* } [*or* township].

NOTE.—Form No. 5 applies to persons who claim to have their names entered in the parochial electors list as parochial electors only.

Any claim to be omitted from the corrupt and illegal practices list must be added to the above list.

A copy of the claim must be entered in this form.

## FORM L.

LIST OF PERSONS OBJECTED TO TO BE PUBLISHED BY THE OVERSEERS (*y*).

## No. 1.—List of Persons on Occupiers List who have been objected to (Parliamentary or Local Government).

Parish [*or* township].

The following persons have been objected to as not being entitled to have their names retained on division one of the occupiers list of electors in respect of the occupation of property in this parish [*or* township].

Name of Person objected to in full. Surname being first.	Place of Abode.	Nature of the supposed Qualification.	Description of Qualifying Property.

(Signed) *A. B.* } Overseers of the above parish  
*C. D.* } [*or* township].

NOTE.—This form applies only to persons objected to who appear in division one of the occupiers list as entitled to vote both as parliamentary electors and as county electors [*or* burgesses].

Any objection to the omission of a person from the corrupt and illegal practices list should be added to the foregoing list.

In this form the particulars should be copied from the list of electors.

(*x*) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (9).

(*y*) *Ante*, p. 616, paragraph 41 of this precept.



**No. 2.—List of Persons on Occupiers List who have been objected to Schedule 2. (Parliamentary).**

Parish [or township] of

The following persons have been objected to as not being entitled to have their names retained on division two of the occupiers list of electors in respect of the occupation of property in this parish [or township] other than lodgings.

Name of Person objected to in full, Surname being first.	Place of Abode.	Nature of the supposed Qualification.	Description of Qualifying Property.

(Signed) *A. B.* } Overseers of the above parish  
*C. D.* } [or township].

NOTE.—Form No. 2 applies to persons whose names appear in division two of the occupiers list as entitled to vote as parliamentary electors only.

Any objection to the omission of a person from the corrupt and illegal practices list should be added to the foregoing list.

In this form copy particulars from the list of electors.

**No. 3.—List of Lodgers objected to.**

Parish [or township] of

The following persons have been objected to as not being entitled to have their names retained on the old lodgers list among the electors for the [ division of the] county of

Name of Person objected to in full, Surname being first.	Description of Rooms occupied, and whether Furnished or not.	Street, Lane, or other Place, and Number (if any) of House in which Lodgings are situate.	Name and Address of Landlord or other Person to whom Rent is Paid.

(Signed) *A. B.* } Overseers of the above parish  
*C. D.* } [or township].

NOTE.—This form applies only to lodgers on the old lodgers list who are objected to.

The list of lodgers so objected to should form a separate list from that of other persons objected to.

In this form copy particulars from the old lodgers list.

**No. 4.—List of Persons objected to (Local Government).**

Parish [or township].

The following persons have been objected to as not being entitled to have their names retained on division three of the occupiers list of

**Schedule 2.** electors in respect of the occupation of property in this parish [or township].

Name of Person objected to in full, Surname being first.	Place of Abode.	Nature of the supposed Qualification.	Description of Qualifying Property.

(Signed) *A. B.* } Overseers of the above parish  
*C. D.* } [or township].

NOTE.—This form applies to objections to persons whose names appear in division three of the occupiers list as entitled to vote as county electors [or burgesses] only.

Any objection to the omission of a person from the corrupt and illegal practices list should be added to the foregoing list.

In this form the particulars should be copied from the list of county electors [or burgesses].

FORM M.

**Declaration for Correcting Misdescription in List (z).**

I,                      of                      in the parish [or township] of                      in [                      parliamentary division of] the county of                      and in the administrative county of                      [or in the borough of                      ] do solemnly and sincerely declare as follows:—

1. I am the person referred to in division                      of the occupiers list of electors [or in the list of                      (*specifying the particular list*)] made out for the parish [or township] of                      , by an entry as follows:—

Name as described in List.	Place of Abode as described in List.	Nature of Qualification as described in List.	Description of Qualifying Property.
Brown, John    -    -	High Street    -    -	Shop    -    -    -	2, Shire Lane.

2. My correct name and place of abode and the correct particulars respecting my qualification are, and ought to be stated, for the purposes of the register of electors as follows:—

Correct Name.	Correct Place of Abode.	Correct Nature of Qualification.	Correct Description of Qualifying Property.
Brown, Joseph    -    -	15, High Street    -    -	House    -    -    -	24, Shire Lane.

Dated this                      day of                      18                      .                      (Signed)                      .  
Made and subscribed before }  
me this                      day of                      18                      .

*A. B.*                      Justice of the peace for                      . (a)

NOTE.—This form must be adapted to suit the various lists.

(z) *Ante*, pp. 327—329.

(a) The person before whom the declaration is made should affix his official description.

## FORM N. (b)

## Schedule 2.

## NOTICE OF WITHDRAWAL OF OBJECTION.

## No. 1.—Notice to the Person objected to.

To A. B.

I hereby give you notice that I withdraw my objection to your name being retained on the list (c) of      †so far as regards the ground of objection numbered      in my notice to you of such objection.†(d)

Dated the      day of      18      .  
(Signed) (e)

## No. 2.—Notice to the Overseers.

To the Overseers of the parish [or township] of      .

I hereby give you notice that I withdraw my objection to the name of      being retained on the list (c) of      †so far as regards the ground of objection numbered      in my notice to him of such objection†(d).

Dated the      day of      18      .  
(Signed) (e)

## FORM O.

## NOTICE REVIVING AN OBJECTION. (b)

## No. 1.—Notice to the Person objected to.

To A. B.

I hereby give you notice that I revive the objection which was made by      , since deceased, to your name being retained on the list (c) of      †so far as regards the ground of objection numbered      in the notice to you of such objection.†(f)

Dated the      day of      18      .  
(Signed) (e)

## No. 2.—Notice to the Overseers.

To the Overseers of the parish [or township] of      .

I hereby give you notice that I revive the objection which was made by      , since deceased, to the name of      being retained on the list (c) of      †so far as regards the ground of objection numbered      in the notice to the person objected to of such objection.†(f)

Dated the      day of      18      .  
(Signed) (e)

(b) *Ante*, p. 309.

(c) The list should be referred to in the manner prescribed for the notice of objection.

(d) Omit the words between crosses if the objection is wholly withdrawn.

(e) The notice should be signed in the manner prescribed for the notice of objection.

(f) Omit the words between crosses if the objection is wholly revived.

## Schedule 2.

## FORM P.

Form of Elector's Notice of Selection in the case of Duplicate Entries. (c)

To the Revising Barrister for [the                      division of] the county of                      .  
I hereby elect to vote in respect of the following entry in the                      list  
of electors for the parish [or township] of                      .

Name of Elector in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) A.B.

NOTE.--The foregoing Form should be filled up with a copy of the entry in the list of electors which the elector wishes to have retained for voting.

The notice should specify the list, and, if the list is made out in divisions, the division in which the entry referred to appears.

If the elector wishes to retain different entries for different purposes he must adapt the form accordingly.

## THIRD SCHEDULE.

## Occupation Electors.

## INSTRUCTIONS AS TO PARISH IN A PARLIAMENTARY BOROUGH.

1. Where a parish or township is in a parliamentary borough, the precept according to the form in this schedule will be sent to the overseers of such parish or township, if it is situate in a municipal borough by the town clerk of that borough, and if it is not situate in a municipal borough, then by the person acting under the Registration Acts as town clerk of the parliamentary borough (d) (who is hereinafter included in the expression "town clerk"), and will be so sent on or within seven days before the 15th day of April (e).

2. Where part of a parish or township is situate within and part without the boundary of a county or division of a county or of a parliamentary or municipal borough, each such part of a parish or township is deemed to be a separate parish or township for the purpose of this schedule (f), and this schedule applies only to that part which is within the boundary of a parliamentary borough whether it is within or without a municipal borough.

(c) *Ante*, p. 340.

(d) In a purely parliamentary borough the returning officer, except in the city of London and the borough of Southwark. In the city of London the expression "town clerk" means the secondaries, and in Southwark the high bailiff. Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 56, 101; Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 18; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 17, *ante*, pp. 423, 431, 457, 485.

(e) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 10; Registration Act, 1885 (48 & 49 Vict. c. 15), s. 7 (1), *ante*, pp. 404, 534.

(f) Registration Act, 1885 (48 & 49 Vict. c. 15), s. 9, *ante*, p. 535.



## Schedule 3.

3. Separate precepts must be sent to the overseers of such parish or township as if that part thereof which is within any such boundary as aforesaid were a separate parish or township from the portion without that boundary.

4. In any such case the town clerk sending the precept in the schedule must add to it a note to the effect that any reference in the precept to the parish or township means only that portion of the parish or township which is situate inside the boundary of the parliamentary borough and inside or outside the municipal borough, as the case may be, and that the lists of all electors for the portion to which the precept refers must be made out separately, as if that portion were a separate parish or township.

5. In the parliamentary boroughs of Bristol, Exeter, Norwich, and Nottingham (*g*) the following additions must be made to the precept, namely—

(i.) To paragraph 3 the following sub-paragraph :—

“or (d) any freehold or burgage tenant (*h*) right reserved by section 31 of the Reform Act, 1832.”

(ii.) To paragraph 35, after sub-paragraph (a) :—

“(b) The freehold and burgage tenant (*h*) list, that is to say, a list (in the Form (D.), No. 2, sent herewith) of all persons who are entitled within your parish [or township] to be registered as parliamentary electors in respect of any freehold or burgage tenant (*h*) right reserved by section 31 of the Reform Act, 1832.”

(iii.) To paragraph 41, at the end of sub-paragraph (b), the words “or is on the freehold and burgage tenant (*h*) list.”

6. In any borough in which there continues to exist any right reserved by section 33 of the Reform Act, 1832 (*i*), the following additions to the precept must be made :—

(i.) To paragraph 3 the following sub-paragraph :—

“or (d) any right reserved by section 33 of the Reform Act, 1832.”

(ii.) After paragraph 7 the following paragraph :—

“A person entitled to be registered in respect of any right reserved by section 33 of the Reform Act, 1832, must be possessed of a right to vote possessed by him on the 7th day of June, 1832.”

(iii.) To paragraph 35 after sub-paragraph (a) the following sub-paragraph :—

“(b.) The reserved rights list, that is to say, a list (in the Form (D.), No. 2, sent herewith) of all persons who are entitled within your parish [or township] to be registered as parliamentary electors in respect of any right reserved by section 33 of the Reform Act, 1832.”

(iv.) To paragraph 41, at the end of sub-section (b), the words “or is on the reserved rights list.”

7. —(i.) In every part of the administrative county of London, unless the local authority has otherwise directed, the following paragraph must be substituted for paragraph 14 (i.) of the precept :—

“In each list, and where the list is made out in divisions, in each division the names of electors must be arranged in the same order in which the qualifying premises appear in the rate book for the parish or township in which the premises are situate, or as nearly as will cause the lists to record the qualifying premises in successive order in the street or other place in which they are situate” (*k*).

(*g*) *Ante*, p. 116.

(*h*) Alter, if necessary, to suit custom of borough.

(*i*) *Ante*, p. 125.

(*k*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 5, *ante*, p. 550.

**Schedule 3.** (ii.) In every other case where the local authority has given any special directions as to making out the list according to streets, or the order in which the qualifying premises appear in the rate book (*l*), a similar substitution must be made.

(8.) In the case of a parish or township within the administrative county of London, all reference to the non-resident list of persons entitled to be elected aldermen or councillors must be omitted (*m*).

9. Where the parish or township is not situate within a municipal borough, the town clerk must substitute in his precept the expression "administrative county" for "municipal borough" and also for "borough" in cases where that word refers to a municipal borough, and must make in the precept such consequential substitution as may be necessary of "county elector" for "burgess," "county register" for "burgess roll," "registered" for "enrolled," "local government" for "municipal," and "county rate" for "borough rate" (*n*).

10. If there is no corrupt and illegal practices list, the town clerk will omit from the precept and forms all parts relating to it (*o*).

11. The town clerk must send, with the precept, to the overseers a copy of each of the forms following the precept in this schedule.

Also, if there is any corrupt or illegal practices list, a copy of that list (*p*).

12. The town clerk must make up the lists of parliamentary electors according to polling districts for parliamentary elections, but he must add at the end of the lists for each such polling district a list of the freemen (if any) entitled to vote in such polling district (*q*).

13. The town clerk must make up the revised list of burgesses into the burgess roll and ward rolls (if any), and number the names of such burgesses in accordance with the Municipal Corporations Act, 1882, and any Act amending the same (*r*).

14.—(i.) The lists of electors for each parish or township, or for each part of a parish or township for which, owing to the parish or township being divided into or forming part of more than one voting area, separate lists are required to be made out, must in making up the register be kept separate, so that they may be obtained separately for use in each voting area.

(ii.) The lists of electors for each parish, township, or part of a parish or township, may, in making up the register, be arranged in such order as the local authority under the Parliamentary and Municipal Registration Act, 1878, may from time to time direct.

(iii.) The names of the persons required to be printed in the parochial electors list must be printed in a separate list at the end of the other lists

(*l*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 16), s. 21, *ante*, p. 490.

(*m*) In consequence of s. 77 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), *ante*, p. 563, there will be no need for a non-resident list, as all who would be otherwise included in such list are by virtue of that section entitled to be registered as county electors, and so under this paragraph it will be necessary to strike out from the precept paragraphs 13, 35 (c), 40 (e), 41 (e), and not to send Form G. with the precept.

(*n*) The form of precept is drawn primarily to suit town clerks of municipal boroughs who deal with burgesses; therefore these alterations should be carefully made where required in order to prevent mistakes by overseers.

(*o*) That is to say, strike out paragraphs 21 (d), 37, 40 (g), and 41 (f).

(*p*) Corrupt and Illegal Practices Act, 1883 (46 & 47 Vict. c. 51), s. 39; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 24.

(*q*) *Ante*, p. 359.

(*r*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 18 (3); Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 45, *ante*, pp. 486, 504.

of electors for the parish, township, or part of a parish or township, and the names so printed will form the occupation part of the parochial electors list, and the list will be so designated (*s*). Schedule 3.

15. Each entry for voting on the parliamentary register of every parliamentary borough, and on the burgess roll of every municipal borough and on the parochial electors list is to be distinguished by a number, either alone or in combination with such letter or distinguishing mark as the local authority under the Parliamentary and Municipal Registration Act, 1878, from time to time fixes.

16. There will be one series of numbers for the whole of each parliamentary borough, or if it is divided into divisions for each division of such borough, and for the whole of each municipal borough, or if it is divided into electoral divisions or wards, for each division or ward, save that if the local authority so direct there may be one series of numbers for the whole borough, whether parliamentary or municipal, or a separate series of numbers for each polling district, whether parliamentary or municipal (*t*).

17. Where the revising barrister places a mark against any name signifying that the name is to be printed in division three of the occupiers list or in the parochial electors list, that name must accordingly be printed in the proper order either alphabetically or according to the street order in division three or in the parochial electors list, as the case may be, and where, under sub-section (7) of section forty-four of the Local Government Act, 1894 (*u*), the revising barrister places against any name any mark or note which renders it necessary to print an asterisk or other mark against any name so printed in division three of the list, that asterisk or other mark must be added.

18.—(i.) In copying and printing the revised lists of any parish or township in a parliamentary and municipal borough including the parochial electors list—

(a.) Divisions 1 and 2 for the parliamentary register, and divisions 1 and 3 for the burgess roll and county register, may, and if and so far as the local authority under the Parliamentary and Municipal Registration Act, 1878, so direct, shall be combined or kept separate according to convenience for use; and any arrangement may, and if and so far as the said local authority so direct, shall, be adopted according to convenience, so that one print or edition of division one may be available for both sets; and

(b.) the revised lists will, subject to any direction given by the local authority, under the Parliamentary and Municipal Registration Act, 1878, be arranged according to convenience for use in parts for the various voting areas, so that the parts may be conveniently compiled or put together to serve as the register for the elections in each voting area.

(ii.) The whole of the lists, so far as they relate to any parish or township, or ward of a parish or township, may be taken to form the register of the parochial electors for that parish, township, or ward.

19. Outside of a municipal borough the names of the parliamentary electors and county electors in the lists in each polling district, including the names in the parochial electors list, may be numbered consecutively, and such portions of those lists as consist of the names of parliamentary electors may be taken to form the register for parliamentary elections, and such portions of those lists as contain the names of county electors may be taken to form the register of county electors (*v*).

20. If the parish or township is within a municipal borough not being a county borough, the town clerk must deliver to the clerk of the county council, for the purpose of making up the county register, such number of

(*s*) Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (*s*), *ante*, p. 579.

(*t*) *Ante*, p. 360.

(*u*) *Ante*, p. 579.

(*v*) Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 76 (3), *ante*, p. 562.

**Schedule 3.** copies of the revised lists of burgesses as the clerk of the county council may require (*w*).

21. If the parish or township is not within a municipal borough, the town clerk must cause to be printed such number of copies of the revised lists of county electors as the clerk of the county council may require, and must transmit the same to the clerk of the county council (*x*). The town clerk must cause such lists to be printed in accordance with such directions as the clerk of the county council may give respecting the numbering of the names and the printing thereof in parts in such manner that the parts may be conveniently compiled or put together to serve as lists for elections in each voting area, and the clerk of the county council will deal with the lists so received from the town clerk in manner directed by the Second Schedule to this Order with respect to lists of county electors (*y*).

22. The officer having under the Parliamentary Registration Acts the custody of any revised lists of electors in a parliamentary borough or municipal borough must permit access thereto for the purpose of the same being copied for any public purpose relating to the registration of parliamentary or county electors or the enrolment of burgesses.

23. Where there is a registration officer appointed under section four of the County Electors Act, 1888 (*z*), for any parish or township, the precept will be sent to that officer instead of to the overseers.

24. If the town clerk is in doubt as to whether there is or is not a registration officer, he should inquire of the clerk of the guardians, and if he cannot obtain information from him, should send the precept to the overseers, and require them to transmit it to the registration officer (if any).

25. In these instructions—

The expression “register of electors” means the parliamentary register of electors, the local government register of electors, and the parochial electors list.

The expression “voting area” means any polling district, electoral division, borough, county district other than a borough, parish or township, or any ward of a borough, county district, parish, or township, or any other area for which is held a separate election at which the register of electors is used.

The expression “electors” includes voters and burgesses; and

Other expressions have the same meaning as in the Registration Act, 1885 (*u*).

### FORM OF PRECEPT TO THE OVERSEERS OF A PARISH IN A PARLIAMENTARY BOROUGH (*a*).

#### Registration of Occupation Electors.

Parliamentary borough	} To the overseers of the poor ( <i>a</i> ) of the parish [or township] of
of Municipal borough	
of	

In pursuance of the provisions of the Acts of Parliament in that behalf I require your attention to the following :—

#### INSTRUCTIONS.

Part I. of this precept informs you generally of the persons entitled to be registered, and of the meaning of the expressions used in this precept,

(*w*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7 (1), *ante*, p. 550.

(*x*) County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (f) (ii), *ante*, p. 549.

(*y*) Paragraph 9 (ii.), *ante*, p. 613.

(*z*) *Ante*, p. 549.

(*u*) In cases where there is a registration officer, “registration officer” must be substituted throughout for “overseers” and “overseers of the poor.”



and also as to the mode in which you are to make out and publish the lists. **Schedule 3.**

Part II. gives you, in order of time, the several matters which you are required to do.

You will receive a separate precept from the clerk of the county council with respect to the registration of ownership electors (*b*).

GENERAL INSTRUCTIONS, EXPLAINING THE PERSONS ENTITLED TO BE REGISTERED, THE MEANING OF THE EXPRESSIONS USED, AND THE MODE OF MAKING OUT AND PUBLISHING THE LISTS.

### *Definitions.*

1.—(*i*.) This precept relates to the registration of occupation electors within the said parliamentary borough and municipal borough.

(*ii*.) Occupation electors may be parliamentary electors or burgesses.

2. In this precept the expression “electors” includes voters and burgesses (*c*), and the expression “registration” includes enrolment.

3. In this precept the expression “parliamentary electors” means [Parliamentary electors.] persons entitled to be registered as electors at parliamentary elections for the said parliamentary borough or any division thereof (*d*) in respect of—

(*a*) a ten pounds occupation qualification as hereafter defined in paragraph 5 of this precept;

(*b*) a household qualification as hereafter defined in paragraph 6 of this precept; or

(*c*) a lodger qualification as hereafter defined in paragraph 7 of this precept (*e*).

4. A person entitled to be registered as a parliamentary elector must be a man of full age (*f*), and not subject to any legal incapacity (*g*), and must in all other respects be duly qualified to be registered as a parliamentary elector, and must not at any time during the twelve months immediately preceding the 15th day of July next, have received any parochial relief (*h*) or other alms; but where a person has received for himself or for any member of his family, any medical or surgical assistance, or any medicine, at the expense of any poor rate, he is not thereby deprived of his right to be registered, and medical or surgical assistance includes all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the poor law medical officer at the expense of any poor rate (*i*).

5.—(*i*.) A person entitled to be registered as a parliamentary elector in respect of a ten pounds occupation qualification (*j*)—

(*a*) must during the whole twelve months immediately preceding the 15th day of July next, have been an occupier as owner or tenant of some land or tenement in your parish [or township] of the clear yearly value of not less than ten pounds; and

(*b*) *Ante*, p. 590, Schedule I. of this Order.

(*c*) This clause is inserted because the expression “electors” is not used in the Registration Acts, but the expressions “voters” and “burgesses” are used in those Acts in a technical sense.

(*d*) The larger parliamentary boroughs were divided into divisions returning one member for each division by the Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), *ante*, p. 533, note (*e*).

(*e*) As to reserved rights, see Instructions, paragraphs 5 and 6, at the commencement of this schedule, *ante*, p. 633.

(*f*) *Ante*, p. 256.

(*g*) *Ante*, p. 253.

(*h*) *Ante*, p. 272. Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 36. See also *post*, p. 645, paragraph 34 of this precept.

(*i*) Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 4), ss. 2 and 4, *ante*, p. 542.

(*j*) *Ante*, p. 135.

- Schedule 3.** (b) must have resided in or within seven (*k*) miles of the said parliamentary borough during six months immediately preceding the 15th day of July next; and
- (c) such person, or some one else must during the said twelve months have been rated to all poor rates made in respect of such land or tenement; and
- (d) all sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the 5th day of January last, or on account of any assessed taxes due before the 5th day of January last, must have been paid on or before the 20th day of July next.

(ii.) If two or more persons jointly are such occupiers as above mentioned, and the value of the land or tenement is such as to give ten pounds or more for each occupier, each of such occupiers is entitled to be registered as a parliamentary elector (*l*).

(iii.) If a person has occupied in the said parliamentary borough different lands or tenements of the requisite value in immediate succession during the said twelve months, he is entitled in respect of the occupation thereof to be registered as an elector in the parish [or township] in which the last occupied land or tenement is situate (*m*).

[Household  
qualification.]

6.—(i.) A person entitled to be registered as a parliamentary elector in respect of a household qualification (*n*)—

- (a) must on the 15th day of July next be and for the whole of the twelve months immediately preceding that day (except the time (if any) not exceeding four months in the whole during which he has permitted the house to be occupied as a furnished house) have been an inhabitant occupier of some dwelling-house in your parish [or township], or of some part of a house separately occupied as a dwelling; and
- (b) such person or some one else must during those twelve months have been rated to all poor rates made in respect of the said dwelling-house; and
- (c) all sums due in respect of the said dwelling-house on account of any poor rate made and allowed during the twelve months immediately preceding the 5th day of January last must have been paid on or before the 20th day of July next.

(ii.) If two or more persons are joint occupiers of a dwelling-house, no one of them is entitled to be registered as a parliamentary elector in respect of a household qualification in respect thereof, though if the value is sufficient, one or more of them may be so entitled under paragraph 5 above (*o*).

(iii.) If a person has occupied different dwelling-houses in the said parliamentary borough in immediate succession during the said twelve months, he is entitled in respect of the occupation thereof to be registered as a parliamentary elector in the parish [or township] in which the last occupied dwelling-house is situate (*p*).

(iv.) If a person inhabits a dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service, or employment, he is considered to be an inhabitant occupier of that dwelling-house (*q*).

[Lodger  
qualification.]

7.—(i.) A person entitled to be registered as a parliamentary elector in respect of a lodger qualification (*r*)—

- (a) must have claimed to be registered; and

(*k*) In the case of a parish in the City of London substitute twenty-five for seven miles; Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 46.

(*l*) *Ante*, p. 186.

(*m*) *Ante*, p. 149.

(*n*) *Ante*, p. 189.

(*o*) *Ante*, p. 221. N.B.—A lodger is not a joint occupier with his landlord, but the landlord is the sole occupier, and may be registered as such.

(*p*) *Ante*, p. 192.

(*q*) *Ante*, p. 207.

(*r*) *Ante*, p. 226.

(b) must have occupied separately as a lodger for the whole twelve months immediately preceding the 15th day of July next, lodgings being part of one and the same dwelling-house in your parish [or township], and being of a clear yearly value, if let unfurnished, of ten pounds or upwards; and

(c) must have resided in such lodgings during the said twelve months.

(ii.) If two or more persons are joint lodgers, and the value of the lodgings is such as to give ten pounds or more for each lodger, two of such persons, but no more, are entitled to be registered as parliamentary electors (s).

(iii.) If a person has occupied different lodgings of the requisite value in the same house, in immediate succession, he is entitled to be registered as a parliamentary elector in respect of the occupation thereof (t).

8. In this precept the expression "burgesses" means persons entitled to be enrolled as burgesses in respect of the old burgess qualification, or of the ten pounds occupation burgess qualification. [Burgesses.]

9. A person entitled to be enrolled as a burgess may be a man or woman (x), but must be of full age and not subject to any legal incapacity, and must in all other respects be duly qualified to be enrolled as a burgess, and must not at any time within the twelve months next before the 15th day of July next have received any union or parochial relief or other alms; but where a person has received for himself or herself, or for any member of his or her family, any medical or surgical assistance, or any medicine, at the expense of any poor rate, he or she is not thereby deprived of his or her right to be enrolled, and medical or surgical assistance includes all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the medical officer of the union or parish at the expense of any poor rate (z). [General qualification of burgess.]

10.—(i.) A person entitled to be enrolled as a burgess in respect of the old burgess qualification (a)— [Old burgess qualification.]

(a) must on the 15th day of July next be, and during the whole of the twelve months immediately preceding that day have been an occupier of a house, warehouse, counting-house, shop, or other building in your parish [or township]; and

(b) have resided during those twelve months in the said municipal borough or within (b) seven miles thereof; and

(c) such person or some one else must during the said twelve months have been rated to all poor rates made in respect of the qualifying property; and

(d) all sums due in respect of the qualifying property on account of any poor rate made and allowed (c) during the twelve months immediately preceding the 5th day of January last, must have been paid on or before the 20th day of July next.

(ii.) A person is entitled to be enrolled as a burgess under the old burgess qualification notwithstanding that he has permitted his dwelling-house to be occupied as a furnished house by some other person for a time not

(s) *Ante*, p. 237.

(t) *Ante*, p. 232. Where there are reserved rights, this paragraph is followed by another before paragraph 8, as mentioned before paragraph 6 of the Instructions to this schedule, *ante*, p. 633.

(x) Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 63, *ante*, p. 506.

(z) See notes to paragraph 4 of this precept, *ante*, p. 637.

(a) *Ante*, p. 239.

(b) If the parish is in the administrative county of London, substitute fifteen for seven; Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 77, *ante*, p. 563.

(c) If the borough or county rate is levied separately from the poor rate, insert after the word "allowed" the words "or any borough [or county] rate made," *ante*, p. 248.

**Schedule 3.** exceeding four months, and during that time has not resided as above mentioned (*d*).

[Ten pounds  
occupation  
burgess  
qualification.]

(iii.) If two or more persons are joint occupiers, each such occupier is entitled to be enrolled as a burgess (*e*).

11.—(i.) A person entitled to be enrolled as a burgess in respect of the ten pounds occupation burgess qualification (*f*)—

- (a) must during the whole twelve months immediately preceding the 15th day of July have been an occupier as owner or tenant of some land or tenement in your parish [*or township*] of the clear yearly value of not less than ten pounds; and
- (b) must have resided in or within (*g*) seven miles of the said municipal borough during six months immediately preceding the 15th day of July next; and
- (c) such person, or some one else, must during the said twelve months have been rated to all poor rates made in respect of such land or tenement; and
- (d) all sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the 5th day of January last, or on account of any assessed taxes (*h*) due before the 5th day of January last, must have been paid on or before the 20th day of July next.

(ii.) If two or more persons jointly are such occupiers as above-mentioned and the value of the land or tenement is such as to give ten pounds or more for each occupier, each of such occupiers is entitled to be enrolled as a burgess.

12.—(i.) Parochial electors consist of parliamentary electors and burgesses, but for the purpose of elections under the Local Government Act, 1894, *i.e.*, elections of (*i*) parish councils, guardians, and district councils not being borough councils, a woman is not disqualified by marriage for being on the register of electors, but a husband and wife cannot be qualified in respect of the same property.

[Succession].

(ii.) If a person has occupied in immediate succession during the twelve months immediately preceding the 15th day of July different premises in the municipal borough which would qualify him for enrolment as a burgess, he is entitled, in respect of the occupation thereof, to be enrolled as a burgess in the parish [*or township*] in which the last occupied premises are situate (*j*).

(iii.) A person is not disqualified from being registered in respect of any qualification mentioned in this schedule by reason only that during part of the twelve months ending on the fifteenth day of July, not exceeding four

(*d*) Municipal Voters Relief Act, 1885 (48 & 49 Vict. c. 9), *ante*, p. 528.

(*e*) *Ante*, p. 249.

(*f*) *Ante*, p. 250.

(*g*) If the parish is in the administrative county of London, substitute fifteen for seven; Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 77, *ante*, p. 563.

(*h*) During the month of July the overseers have a right, upon request, to inspect any tax assessment or duplicate for their parish in the custody of any assessor or collector of taxes, at any time between 10 a.m. and 4 p.m. on any day except Sunday. Assessors and collectors of taxes are bound, within two days after July 20th, to send in to the overseers a list of persons in arrear of assessed taxes payable on January 5th preceding; Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 12; Parliamentary Elections Act, 1848 (11 & 12 Vict. c. 90). Overseers must keep this list open to inspection as described in paragraph 26 of this precept, *post*, p. 643.

(*i*) If the parish is in London omit "parish councils and district councils" and insert "vestries and parish auditors."

(*j*) *Ante*, p. 243. Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 33 (2), *ante*, p. 503; but the occupation of premises in a municipal borough in immediate succession to premises outside the municipal borough during the qualifying period, though such last-mentioned premises are such as would qualify him for registration as a county elector, if he had not removed from them, will not entitle any person to be enrolled as a burgess.



months at any one time, he has, in the performance of any duty arising from or incidental to any office, service, or employment held or undertaken by him, been absent from his dwelling-house or lodgings, or not resided in or within the required distance from the borough (*k*). Schedule 3.

13. A person who is entitled to be enrolled as a burgess in all respects except that of residence, and is resident beyond seven miles, but within fifteen miles, of the said municipal borough, is entitled to be on the non-resident list of persons entitled to be elected aldermen or councillors though not entitled to be on the burgess roll (*l*). [Qualification as councillors.]

*Mode of Making out Lists.*

14.—(i.) Each list and, where the list is made out in divisions, each division of each list must be made out in alphabetical order (*m*).

(ii.) If your parish [or township] is divided into, or forms part of more than one voting area, that is to say, any polling district, electoral division, borough, county district, ward, or other area for which is held a separate election at which the register of electors is used, you must make out a list for each part which is in a separate voting area, as if it were a separate parish.

15. In making out the lists you are to state the surname and other name or names of each person at full length, the surname being placed first. [Entry of names.]

16. The place of abode should be entered with the name, if any, of the street, lane, or other locality, and the number, if any, in such street, lane, or other locality, and such entry should be made in all cases in such a manner as will afford a full and sufficient address for a person entered if a letter is addressed to him by post.

17.—(i.) The nature of the qualification should be entered as nearly as possible in accordance with the words of the statute conferring the franchise; for instance:— [Entry of nature of qualification.]

(a.) The nature of the ten pounds occupation qualification of a person should be stated thus:—"tenement" (*n*) or "land," or "land and tenement," or in case of a joint occupation "tenement (joint)" or "land (joint)," or in the case of a successive occupation "tenement (successive)," or "land (successive)."

(b.) The nature of a household qualification should be stated thus, "dwelling-house," or in the case of successive occupation "dwelling-house (successive)."

(c.) The nature of the old burgess qualification should be stated thus, "house," "warehouse," "counting-house," "chambers," or as the case may be, with the addition of "joint" or "successive" if necessary.

(ii.) Where the same property constitutes both a ten pounds occupation qualification and also the old burgess qualification, the nature of the qualification should be stated by a description of the tenement thus, "house," "shop," "warehouse," or "building," or "chambers," or as the case may be, or in the case of a joint occupation, "house (joint)," "shop (joint)," "warehouse (joint)," or as the case may be, or in the case of a successive occupation, "shop (successive)," or as the case may be.

(iii.) Where the same property constitutes both a ten pounds occupation qualification, or the old burgess qualification, and also a household qualification, the nature of the qualification should be entered as "dwelling-house."

(*k*) Electoral Disabilities Removal Act, 1891 (54 & 55 Viet. c. 11), *ante*, p. 568.

(*l*) If the parish is within the administrative county of London this paragraph should be omitted. See Instructions, paragraph 8, *ante*, p. 635.

(*m*) In every part of the administrative county of London, unless the local authority has otherwise directed, and elsewhere if the local authority has given any special directions as to the mode of making out the list according to streets or otherwise, the town clerk, or other officer issuing the precept, must modify paragraph 14 accordingly. See Instructions, paragraph 7, *ante*, p. 634.

(*n*) Overseers should be careful not to use the word "tenement" except in the case of a ten pounds occupation qualification. See *ante*, p. 331.

**Schedule 3.**

(iv.) If the description indicates the nature of the qualification, as, for instance, if a ten pounds occupation qualification consists of a house and is entered as a dwelling-house, such description will be sufficient.

(v.) Any description of the nature of the qualification further than that above mentioned is superfluous, and should not be given.

[Entry of  
qualifying  
property.]

18. The description of any qualifying property should specify the name and situation of that property, and for that purpose should either state the name (if any) of the street, lane, or other locality, and the number (if any) in such street, lane, or other locality of such property, or the name of the occupying tenant, and the description of the qualifying property should in all cases be such as will afford full and sufficient means of identifying such property.

[Several  
qualifications.]

19. Where several qualifications are possessed by the same person, the particulars respecting each qualification should be stated in the list; and in the case of a list made out in divisions, where a person is entered in division one in respect of one qualification for parliamentary purposes and in respect of another qualification for municipal purposes, each such qualification should be distinguished in the list by a note to the effect that the qualification is for parliamentary purposes only, or for municipal purposes only, as the case may be.

[Divisions of  
list.]

20. The occupiers list (mentioned hereafter in paragraph 35, sub-paragraph (a)) is to be made in three divisions: (o)

Division one is to comprise the names of the persons entitled both to be registered as parliamentary electors in respect of a ten pounds occupation or household qualification, and to be enrolled as burgesses (*p*).

Division two is to comprise the names of the persons entitled to be registered as parliamentary electors in respect of a ten pounds occupation or household qualification, but not to be enrolled as burgesses (*q*).

Division three is to comprise the names of the persons entitled to be enrolled as burgesses, but not to be registered as parliamentary electors in respect of a ten pounds occupation or household qualification (*r*).

[Omission of  
dead and  
disqualified.]

21. You should omit from any list of parliamentary electors (other than the old lodgers list) and from any list of burgesses and from the non-resident list mentioned in sub-paragraph (c) of paragraph 35, the name of any person—

(a) whom from the returns furnished by the registrar of births and deaths (*s*), or from your own knowledge, you know to be dead; or

(b) who is not qualified by reason of the non-payment of rates; or

(c) who is disqualified by reason of having received parochial relief (*t*); or

(d) whose name is entered in the corrupt and illegal practices list (*u*).

[Objection to old  
lodger list.]

22. In making out the old lodgers list mentioned hereafter in paragraph 35, sub-paragraph (b), if you have reason to believe that any person whose name is entered on that list is dead, or is not entitled to be registered, you should make a note to that effect in the margin of the list (*x*).

(o) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 76), s. 15 (2); County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, pp. 484, 547.

(*p*) No woman, peer, or service occupier should be entered in this division.

(*q*) This division should contain the names of service occupiers.

(*r*) This division should contain the names of women and peers.

(*s*) See *post*, paragraph 23 of this precept.

(*t*) See *post*, p. 645, paragraph 34 of this precept.

(*u*) Omit (d) where there is no corrupt and illegal practices list. See Instructions, paragraph 10, *ante*, p. 634.

(*x*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 22, *ante*, p. 487.

23. The registrars of births and deaths are required to send to you, **Schedule 3.**  
periodically, returns of the names and residences of all male persons of full  
age dying within your parish [or township], and also as and when required [Registrars'  
by you of the names and residences of all women of full age dying within returns of  
your parish [or township] and you must examine those returns to see deaths.]  
whether any person who otherwise would appear in the list of electors is  
dead, and you are to pay the registrar, as part of your expenses connected  
with registration, a fee of twopence for each return, and a further fee of  
twopence for every death entered in such returns (*y*).

*Publication and Inspection.*

24.—(i.) The manner in which you are required to publish the notices,  
lists, and documents directed by this precept to be published is as follows : [Publication of  
that is to say— lists, etc.]

(ii.) You are to fix a copy of such notice, list, or document (each copy  
being first signed by you)—

(a) on or near the outside of the outer door or of the outer wall near the  
door of every church and public chapel in your parish [or town-  
ship], including chapels which do not belong to the Established  
Church; and

(b) also, having first obtained the authority of the local postmaster, or  
if he refuses, of the Postmaster-General, in some public and  
conspicuous position in or near every post-office and telegraph  
office occupied by or on behalf of the Postmaster-General (*z*); and

(c) also in or near every public or municipal or parochial office in your  
parish [or township]; or

(d) if there is no such church, chapel, or office, then in some public or  
conspicuous situation in your parish [or township] (*a*).

25. Everything so published must remain there during a period including  
two consecutive Sundays at least next after the first day of publication,  
and if you find any notice, list, or other document published by you in  
pursuance of this precept to be destroyed, mutilated, defaced, or removed,  
you are forthwith to place another to the same effect in its place (*b*).

26. Where this precept directs you during any period to allow any list,  
notice, or other document to be open to public inspection and to deliver [Inspection and  
copies thereof, you will permit such list, notice, or document to be delivery of  
perused by every person desirous of perusing it, at any time between the copies.]  
hours of 10 o'clock in the forenoon and 4 o'clock in the afternoon of any  
day, except Sunday, during the said period, without payment or demand  
of any fee; and you are also to deliver a written or printed copy of it,  
signed by you, to every person applying for the same during the said  
period, on payment of a price for such copy after the following rate (*c*):—

For any list or copy of a list containing any number of persons' names—

	<i>s.</i>	<i>d.</i>
Not exceeding 100 names - - - - -	0	6
Exceeding 100 and not exceeding 200 - - - - -	1	0
Exceeding 200 and not exceeding 300 - - - - -	1	6
Exceeding 300 and not exceeding 400 - - - - -	2	0
Exceeding 400 - - - - -	2	6

(*y*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict.  
c. 26), s. 11, *ante*, p. 482.

(*z*) Parliamentary and Municipal Registration Act, 1843 (6 & 7 Vict.  
c. 18), s. 23, *ante*, p. 487.

(*a*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict.  
c. 26), s. 9, *ante*, p. 482. See also note (*h*), *ante*, p. 288.

(*b*) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18),  
s. 24, *ante*, p. 410.

(*c*) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18),  
Sched. D., No. 1, *ante*, p. 436. See also note (*s*), *ante*, p. 612.

- Schedule 3.** 27. You must allow any person who is registered as a parliamentary elector in the said parliamentary borough, or enrolled as a burgess in the said municipal borough, to inspect at all reasonable times, free of charge,—
- (a) the books containing the poor rates made for your parish [or township] within the last two years, and to make a copy of, or take an extract from, such books; and
  - (b) the returns of deaths sent to you by the registrars of births and deaths (d).

## PART II.

### THINGS TO BE DONE IN ORDER OF DATE.

#### *Notices and Inquiries.*

[April and  
May.]

28.—(i.) In the months of April and May, or one of them, you are to inquire or ascertain with respect to all property in your parish [or township] which comprises any dwelling-house (including under the term any part of a house separately occupied as a dwelling), whether any man, other than the owner or other person rated or liable to be rated in respect of such property, is entitled to be registered as a parliamentary elector in respect of a household qualification by reason of his being an inhabitant occupier of such dwelling-house, and you are to enter in the rate book, in a separate column added for the purpose, the name of every man so entitled, and the situation or description of the dwelling-house in respect of which he is entitled.

(ii.) If any property, whether by reason of belonging to the Crown or otherwise, is not rated, you must act under this paragraph in the same manner as if it were rated (e).

29. For the purpose of your inquiry you are at liberty to serve on any person who is the occupier or rated or liable to be rated in respect of any property, or on some agent of such person concerned in the management of such property, a requisition according to the Form A. among the forms sent herewith. You may serve the requisition by giving it to the person by whom it is to be observed, or by leaving it at his last or usual place of abode, or with some person on the property, and in case no such person can be found, then by fixing the requisition on some conspicuous part of the property, and where the property is occupied by a company or other body of persons, you may serve the requisition on the secretary or agent of the company or body of persons, and if the property belongs to the Crown or is not rated, you may serve it on the chief local officer having the superintendence or control of the property. A person who fails to comply with the requisition is liable on summary conviction to a penalty of forty shillings (f).

30. In making the inquiries directed by the two last paragraphs you will observe the following directions :—

- (a.) If you know that any man who is not rated has inhabited a dwelling-house since the 15th day of July last you should enter the name of that man in the rate book as mentioned in paragraph 28 of this precept, without serving any requisition on the occupier or other person rated;
- (b.) You should not serve the requisition on the occupier or owner of any property, unless you have reasonable ground to believe that there is some inhabitant occupier of such property, who is entitled to be registered as an elector, besides the person on whom the requisition is served.

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(d) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), ss. 11, 13, *ante*, pp. 482, 484.

(e) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 9 (2) and (9), *ante*, pp. 525, 526.

(f) Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 9 (3) and (4), *ante*, p. 525.



31. On or before the 20th day of June next you are to publish in manner directed by paragraph 24 of this precept a notice signed by you according to the Form B. among the printed forms sent herewith. Schedule 3.

32.—(i.) Where any sum on account of a poor rate made and allowed during the twelve months next before the 5th day of January last is on the first day of June next due in respect of any property in your parish [*or township*] capable of conferring the parliamentary or municipal franchise in respect of the occupation of said property otherwise than as a lodger, you are on or before the 20th day of June next to give to every occupier of that property a notice (in the Form C. (No. 1) sent herewith), by delivering it to such occupier, or leaving it at his last or usual place of abode, or with some person on the property in respect of which the rate is payable, and in case no such person can be found, then by affixing the notice upon some conspicuous part of such property. [June 20th.]

(ii.) You need not give this notice if the rate has been previously duly demanded of such occupier by a demand note served in the like manner as the last-mentioned notice, but you must serve the notice on every occupier of that property who will, if the rate is paid, be entitled to be registered as an elector in respect of the occupation thereof (*g*).

(iii.) Where any sum on account of borough rate made during the twelve months next before the 5th day of January last is on the 1st day of June next due in respect of any property in your parish [*or township*] capable of conferring the municipal franchise in respect of the old burgess qualification, the notice must further state that omission to pay the borough rate will disqualify from enrolment as a burgess in respect of the old burgess qualification (*h*).

33.—(i.) If the sum due on account of poor rate as above mentioned in respect of any property is not paid on or before the 20th day of July next, all occupiers of that property are disqualified from being entered in the occupiers list of electors; and if any sum due on account of borough rate as above mentioned in respect of any property is not paid on or before the 20th day of July next, all occupiers of that property are disqualified from being entered in any list of burgesses in respect of the old burgess qualification (*i*). [July 22nd.]

(ii.) On or before the 22nd day of July next you are to make out (in the Form C. (No. 2) sent herewith) a list containing the name of every person so disqualified; and you are to keep that list, and during the first fourteen days after the said 22nd day of July are to allow it to be open to public inspection, and to deliver copies thereof in accordance with paragraph 26 of this precept (*k*).

34. On or before the last day of July next you are to ascertain from the relieving officer acting for your parish [*or township*] the names of all persons who are disqualified from being inserted in the lists of occupation electors for your parish [*or township*] by reason of having received parochial relief, and the relieving officer upon your application is bound to produce to you at such place in your parish [*or township*] and at such [July 31st.]

(*g*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 28; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 10; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (1) (b), *ante*, pp. 450, 482, 548.

(*h*) If the borough [*or county*] rate is levied as a part of the poor rate, the paragraph relating to the borough [*or county*] rate should be omitted.

(*i*) If the borough [*or county*] rate is levied as a part of the poor rate, the part of the paragraph relating to the borough [*or county*] rate should be omitted.

(*k*) Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 29; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 10; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (1) (b), *ante*, pp. 450, 482, 548.

**Schedule 3.** times as are required by you the books in his possession containing the names of such persons (*l*).

*Lists of Electors.*

[July 31<sup>st</sup>.]

35. On or before the last day of July next you are to make out in manner directed by paragraphs 14 to 22 of this precept the following lists of electors :—

- (a) the occupiers list, that is to say, a list (in the Form (D.) No. 1, sent herewith) of all persons who by reason of the occupation of property situate wholly or partly within your parish [*or* township] are entitled to be registered as parliamentary electors in respect of a ten pounds occupation or a household qualification as defined in paragraphs 5 and 6 of this precept, or to be enrolled as burgesses of the said municipal borough (*m*) ;
- (b) the old lodgers list, that is to say, a list (in the Form (D.) No. 3, sent herewith) of all persons who, being on the register of electors now in force for the said parliamentary borough in respect of residence in lodgings within your parish [*or* township] have, on or before the 25th day of July next, given or caused to be given to you or any one of you claims to have their names inserted in the lists of parliamentary electors in respect of residence in the same lodgings (*n*) ;
- (c) the non-resident list, that is to say, a list (in the Form (G.) sent herewith) of all persons who are entitled in respect of the occupation of property within your parish [*or* township] to be elected aldermen or councillors of the said municipal borough, but are not entitled to be on the Burgess list thereof (*o*).

[August 1<sup>st</sup>.]

36. On or before the first day of August next you are to sign the above-mentioned lists, and to cause a sufficient number of copies of such lists to be written or printed, and to publish the lists signed by you in your parish [*or* township] in manner directed by paragraph 24 of this precept.

37. You are also to publish at the same time and in the same manner the corrupt and illegal practices list which is sent herewith (*p*).

38. You are also to cause a sufficient number of the above lists to be written or printed and to keep a written or printed copy of each of the above lists, and during the first fourteen days after the publication of them are to allow them to be open to public inspection, and to deliver copies thereof in accordance with paragraph 26 of this precept.

(*l*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 12 ; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (1) (*b*), *ante*, pp. 483, 548.

(*m*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 15 ; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (1) (*b*), *ante*, pp. 484, 548. Where there are reserved rights another sub-paragraph is here inserted before sub-paragraph (*b*). See paragraphs 5 and 6 of the Instructions at the commencement of this schedule, *ante*, p. 633.

(*n*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 22, *ante*, p. 487. The overseers should be careful to make out this list *from the claims*, and not from the existing register. The claim is an essential part of the qualification, and an old lodger, who has not sent in a fresh claim in proper time, is not entitled to be registered, *ante*, p. 235.

(*o*) Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 19 ; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 12, *ante*, pp. 486, 553. If the parish is within the administrative county of London this sub-paragraph should be omitted. See Instructions, paragraph 8, *ante*, p. 635.

(*p*) Corrupt and Illegal Practices Act, 1883 (46 & 47 Vict. c. 51), s. 39 ; Municipal Electors (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 24. If there is no corrupt and illegal practices list, the paragraph relating to it must be omitted. See Instructions, paragraphs 10 and 11, *ante*, p. 634.

39. You are also to keep the list of defaulters in the payment of assessed taxes sent to you by the collector of taxes, and allow it during the first fourteen days after the first publication of the lists of voters to be open for public inspection in manner directed by paragraph 26 of this precept. Schedule 3.

*Claims and Objections.*

40. On or before the 25th day of August next you are to make out (in accordance with paragraphs 14 to 22 of this precept, and according to the Form K. sent herewith) claim lists, that is to say, lists containing the name of every person who has given or caused to be given to you, or any one of you, on or before the 20th day of August next, notice of his claim (*r*) to have his name inserted in any list of electors for your parish [or township], making separate lists of—

- (a) persons claiming insertion both among the parliamentary electors for the said parliamentary borough and the burgesses for the said municipal borough ;
- (b) persons claiming insertion in a list of parliamentary electors only, but otherwise than as freemen or lodgers ;
- (c) persons claiming insertion in a list of parliamentary electors as lodgers, but not comprised in the old lodgers list ;
- (d) persons claiming insertion in the list of burgesses only ;
- (e) persons claiming insertion in the parochial electors list ;
- (f) persons claiming insertion in the non-resident list (*s*) ; and
- (g) persons claiming to have their names omitted from the corrupt and illegal practices list (*t*).

41. On or before the 25th day of August next you are also to make out (in accordance with paragraphs 14 to 22 of this precept, and according to the Form L. sent herewith) objection lists, that is to say, lists containing the name of every person against whom a notice of objection (*u*) has been given to you, or any of you on or before the 20th day of August next as not being entitled to have his name retained in a list of electors for your parish [or township], giving in separate lists the objections made to—

- (a) any person on the occupiers list both as a parliamentary elector and a burgess ;
- (b) any person on the occupiers list as a parliamentary elector only (*x*) ;
- (c) any person on the old lodgers list ;
- (d) any person on any list as a burgess only ;
- (e) any person on the non-resident list (*s*) ; and
- (f) any person on the ground that he is omitted from the corrupt and illegal practices list (*t*).

42. On or before the 25th day of August next you are to sign each of the claim and objection lists, and to publish it in the manner directed by paragraph 24 of the precept. [August 25th.]

43. You are to cause a sufficient number of the claim and objection lists signed by you to be written or printed, and are to keep a copy of each of such lists, and during the fourteen days next after the 25th day of August are to allow such copies and also the original notices of claims and objections to be open to public inspection, and to deliver copies thereof in accordance with paragraph 26 of this precept. [August 25th.]

(*r*) See Form H., *post*.

(*s*) If the parish is within the administrative county of London this subparagraph should be omitted. See Instructions, paragraph 8, *ante*, p. 635.

(*t*) Omit this if there is no corrupt and illegal practices list. See Instructions at the commencement of this Schedule, paragraph 10, *ante*, p. 634.

(*u*) See Form I., *post*.

(*x*) Where there are reserved rights, an addition is made to this subparagraph. See Instructions at the commencement of this Schedule, paragraphs 5 and 6, *ante*, p. 633.

**Schedule 3.** 44. On or before the 25th day of August next you are to deliver to me (y) - -  
[August 25th.] (a) two copies of the lists made out under paragraph 35 of this precept ;

and  
(b) a copy of each of the claim and objection lists made out and signed by you under paragraphs 40 to 42 of this precept.

45. You are to attend the court to be holden by the revising barrister for the revision of the lists of electors for your parish [or township]; and notice will be sent you of the time and place of holding such court.

46. You are at such court to deliver to the barrister holding it the following documents (z) :—

(a) the several lists made out and signed by you ; and

(b) the original notices of claims and of objections given to you ; and you are there to produce the rate books of your parish [or township] containing the poor rates made and allowed during the period between the 5th day of January in last year and the 15th day of July next.

If you fail to comply with this precept you will be liable to the penalties in that case provided (a).

Dated the            day of

18 .

(Signed)    A.B.,

Town clerk of the municipal borough  
of (b)

## FORMS FOR OCCUPATION ELECTORS IN PARISH IN A PARLIAMENTARY BOROUGH.

### FORM (A.)

#### Form of Requisition by Overseers requiring Names of Inhabitant Occupiers (c).

To E.F.

You are hereby required to fill up accurately the under-written form.

If this form is not returned to us [or me], accurately filled up, within twenty-one days after the service hereof, you will be liable under the Representation of the People Act, 1884, to a penalty not exceeding forty shillings.

Dated this            day of

18

A.B.

C.D.

Overseers [or assistant overseer], for the parish [or township] of

---

(y) If the parish is not in a municipal borough insert after the words "deliver to me" the words "and to the clerk of the county council of your administrative county"; County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (f), *ante*, p. 549.

(z) Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 35; Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 22; and as to lists of county electors, County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, *ante*, pp. 413, 487, 547; as to production and allowance of accounts of receipts and expenses, *ante*, p. 291.

(a) For every wilful neglect or breach of duty the revising barrister may fine an overseer any sum not exceeding five pounds nor less than twenty shillings. In addition to the fine, an overseer may also be liable to an action for damages at the suit of any party aggrieved. See *ante*, p. 290.

(b) If the officer issuing the precept is not the town clerk of a municipal borough, he should append to his signature his proper official description.

(c) *Ante*, p. 644, paragraph 29 of this precept.



*Form of Return.***Schedule 3.**

1.	2.	3.
Property in respect of which the person making the return is rated [or liable to be rated, or occupier].	Situation or description of every dwelling-house, as defined by the Representation of the People Acts, forming part of the property in First Column.	Surname and other Name of every Man who was on the fifteenth day of July last, and has been up to the date of the Return, an inhabitant occupier of any dwelling-house in the Second Column.

I declare that the above is a true and complete return.

(Signed) *E.F.*

Dated the       day of       18      

NOTE.—The description of the property in the first column should be a copy from a rate book, and should be filled in by the overseers, and if it is a house numbered in a street, should specify the street and number.

Such of the following instructions as are suitable should be annexed to the form, with such alterations, if any, as the overseers think necessary for adapting them to the circumstances of the parish [or township] or of the property to which the notice refers.

**Instructions for filling up Form.**

*Instructions where property consists of several buildings ; for instance, cottages let by the owner.*

(1.) In second column insert “cottage in       Lane,” or otherwise describe its locality.

(2.) In the third column insert opposite to the description of the cottage in the second column, the name of the man who now inhabits it, and has inhabited it since the fifteenth day of July last.

(3.) If it has not been so inhabited, state so, or omit the cottage from the second column.

(4.) The head of the family alone is considered to be the occupier.

(5.) The temporary absence of the occupier in the performance of any duty does not disqualify him for being registered.

*Instructions in case of what is commonly called the Service Franchise.*

(5.) The dwelling-house in the second column may be either—

(a.) A separate house—for example, a schoolmaster’s house ; or

(b.) A part of a dwelling-house separately occupied as a dwelling—for example, a room or rooms over a stable, or caretaker’s rooms in an office.

(6.) If it is a separate house, insert in the second column “house in       Road,” or otherwise describe its locality.

(7.) If it is a part of a dwelling-house, insert in the second column “rooms over stable,” “basement of office,” “rooms over shop,” or otherwise specify the locality of the room or rooms.

(8.) In the third column insert, opposite to the description of the dwelling-house in the second column, the name of the man who now inhabits it, and has inhabited it since the fifteenth day of July last.

(9.) If it has not been so inhabited, state so, or omit the dwelling-house from the second column.

**Schedule 3.** (10.) In filling up the return it must be recollected that, under the Representation of the People Acts,—

- (a.) In the case of a man who inhabits by reason of any office, service, or employment, if the same house is inhabited by any person under whom such man serves in his office, service, or employment, such man is not considered a separate inhabitant occupier; for example, a butler occupying rooms in his master's house is not such an occupier, although if he occupied rooms over a detached building, such as a laundry, he might be such an occupier:
- (b.) The head of the family alone is considered to be occupier.
- (c.) The temporary absence of the occupier in the performance of any duty does not disqualify him for being registered.

*Instructions in the case of a house let in separate tenements.*

(11.) The dwelling-house in the second column may be any room or rooms in the house which are separately occupied as a dwelling.

(12.) Insert in the second column the position of the room or rooms occupied—for example, “first floor, front room.”

(13.) In the third column insert, opposite to the description of the room or rooms in the second column, the name of the man who now inhabits it or them, and has so inhabited since the fifteenth day of July last.

(14.) If any room or rooms have not been so inhabited, state so, or omit the room or rooms from the second column.

(15.) In filling up the return, it must be recollected that, under the Representation of the People Acts,—

- (a.) A man who occupies separately any room or rooms in a house must be entered, although he is entitled to the joint use of some other part of the house; for example, a man occupying separately the first floor front rooms, and having joint use of a wash-house, must be entered:

- (b.) The head of the family alone is considered to be the occupier.

- (c.) The temporary absence of the occupier in the performance of any duty does not disqualify him for being registered.

(16.) If the landlord of a house let out in separate tenements lives in the house, he must not return the names of the occupiers of tenements in that house.

**FORM (B.)**

**Notice as to Rates to be published by the Overseers (d).**

*Parish [or township] of*

Parliamentary borough of

Municipal borough of

} We hereby give notice  
} that no person will  
} be entitled to have

his or her name inserted in any list of electors now about to be made in respect of the occupation of any premises situate wholly or partly within this parish [or township] otherwise than as lodgings, unless all sums which have become due in respect of those premises on account of any poor rate made and allowed during the twelve calendar months next preceeding the fifth day of January last past have been duly paid on or before the twentieth day of July next; or to have his or her name inserted in any such list in respect of the occupation as a ten pounds occupier of any

(d) *Ante*, p. 645, paragraph 31 of this precept. Where a borough [or county] rate is levied as a separate rate and not as part of the poor rate, the form should be altered accordingly, so as to distinguish the borough [or county] rate from the poor rate, and to state that omission to pay the borough [or county] rate will disqualify for enrolment as a burgess [or for registration as a county elector, as the case may be] in respect of the old burgess qualification as well as non-payment of the poor rate.

premises situate as aforesaid, unless also all assessed taxes due in respect of those premises previously to the fifth day of January last past have been duly paid on or before the twentieth day of July next.

Dated the                      day of June 18  
 (Signed)     A.B. } Overseers of the above parish  
                  C.D. } [or township].

FORM (C.)

**No. 1.**—Notice as to Rates to be served by the Overseers (e).

Parish [or township] of

To *A.B.*

Parliamentary borough of

Municipal borough [or administrative county] of

Take notice that you will not be entitled to have your name inserted in the list of electors now about to be made as occupier of the premises in your occupation in [*street or place*], unless on or before the twentieth day of July next all sums due in respect of those premises on account of any poor rate made and allowed during the twelve calendar months next preceding the fifth day of January last, amounting to £ , are duly paid.

Dated the            day of June 18  
                        (Signed)      C.D. } Overseers of the above parish  
                                         E.F. { [or township].

No. 2.—Form of List of Names of Persons disqualified for being registered by non-payment of the rates due in respect of the premises named herein (f).

Parish [or Township] of

Name of person in full Surname being placed first.	Place of Abode.	Premises.	Person actually rated in respect of Premises.

FORM (D.)

FORM OF LISTS OF OCCUPATION ELECTORS.

No. 1.—Occupiers List (*g*).

Parish [or Township] of

LIST OF

The persons entitled to be registered as parliamentary electors for the parliamentary borough of \_\_\_\_\_ and of the persons

(e) *Ante*, p. 645, paragraph 32 of this precept. Where a borough [or county] rate is levied as a separate rate and not as part of the poor rate, the form should be altered accordingly, so as to distinguish the borough [or county] rate from the poor rate, and to state that omission to pay the borough [or county] rate will disqualify for enrolment as a burgess [or for registration as a county elector, as the case may be] in respect of the old burgess qualification as well as non-payment of the poor rate.

(f) Ante p. 645, paragraph 33 of this precept.

(g) *Ante* pp. 646, 642, paragraphs 35 (a), 20 and 21 of this precept.

N. 7.—This list (No. 1) does not contain the names of any parliamentary electors except those entitled in respect of a ten pounds or household qualification.

**Schedule 3.** entitled to be enrolled as burgesses for the municipal borough [or registered as county electors for the administrative county] of \_\_\_\_\_ in respect of the occupation of property situate wholly or partly within this parish [or township] otherwise than as lodgings.

*Division 1. Persons entitled in respect of the occupation aforesaid, both to be Registered as Parliamentary Electors and to be enrolled as Burgesses [or Registered as County Electors].*

1. Names of Electors in full, Surname being first.	2. Place of Abode.	3. Nature of Qualification.	4. Description of Qualifying Property.

*Division 2. Persons entitled, in respect of the occupation aforesaid, to be Registered as Parliamentary Electors, but not to be enrolled as Burgesses [or Registered as County Electors].*

Names of Electors in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

*Division 3. Persons entitled, in respect of the occupation aforesaid, to be enrolled as Burgesses [or Registered as County Electors], but not to be Registered as Parliamentary Electors.*

Names of Electors in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) *A.B.* } Overseers of the parish  
*C.D.* } [or township] of



**No. 2.—Reserved Rights List (h).****Schedule 3.**

Parish [or Township] of

List of the persons entitled to be registered as parliamentary electors for the parliamentary borough of \_\_\_\_\_, in respect of any right reserved by sections 31 and 33 of the Reform Act, 1832.

Names of Electors in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property (if any).
Smith, John - -	15, Brick Street -	Inhabitant house- holder paying scot and lot.	

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].

**No. 3.—Old Lodgers List (i).**

Parish [or Township] of

List of the persons who being on the register of electors now in force for the parliamentary borough of \_\_\_\_\_ in respect of residence in lodgings within the above parish [or township] of \_\_\_\_\_ claim, in respect of residence in the same lodgings, to have their names inserted in the list of electors for the said borough.

Names of Claimants in full, Surname being first.	Description of Rooms occupied and whether Furnished or not.	Street, Lane, or other Place, and Number, if any, of House in which Lodgings are situate.	Name and Address of Landlord or other Person to whom Rent is paid.	Margin for Objections by Overseers.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].

**FORM (G.)****Non-resident List (k).**

Parish [or Township] of

List of the persons who are entitled to be elected aldermen or councillors of the municipal borough [or administrative county] of \_\_\_\_\_ in

(h) *Ante*, p. 633, paragraphs 5 and 6 of the Instructions at the commencement of this schedule.

(i) *Ante*, pp. 646, 642, paragraphs 35 (b) and 22 of this precept. The particulars in this list should be filled in from the claims.

(k) *Ante*, p. 646, paragraph 35 (c) of this precept. For a parish within the administrative county of London this Form is not required. See Instructions, paragraph 8, *ante*, p. 635.

**Schedule 3.** respect of the occupation within the above parish [or township] of any property, but who are not entitled to be on the burgess roll of that borough [or county register of that administrative county].

1. Names of Persons in full, Surname being first.	2. Place of Abode.	3. Nature of Qualification.	4. Description of Qualifying Property.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].

#### FORM (H.)

#### NOTICE OF CLAIM (OCCUPATION ELECTORS) (l)

##### No. 1.—Parliamentary and Local Government (other than Lodgers).

To the overseers of the parish [or township] of  
I claim to have my name inserted in the lists for your parish [or township] of the parliamentary electors for the parliamentary borough of and of burgesses for the municipal borough (*m*) of [or to have my name entered in the parochial electors list for your parish [or township]] in respect of the qualification named below [and to have my name omitted from the corrupt and illegal practices list].

Name of Claimant in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

Dated the            day of            18            . (Signed) *A.B.*

NOTE.—If the claim is to be registered as a parliamentary elector only, or as a burgess [or county elector] only or only to be entered in the parochial electors list, the form must be altered accordingly.

(l) *Ante*, p. 647, paragraph 40 of this precept.

(*m*) If the parish is not in a municipal borough substitute "county electors for the administrative county" for "burgesses for the municipal borough."

## No. 2.—(Lodgers).

## Schedule 3.

To the overseers of the parish [or township] of  
 I claim to have my name inserted in the list of electors in your parish  
 [or township] for the borough of in respect of the qualification  
 named below.

Name of Claimant in full, Surname being first.	Description of Rooms occupied, and whether Furnished or not.	Street, Lane, or other Place: and Number (if any) of House in which Lodgings situate.	Amount of Rent Paid.	Name and Address of Landlord or other Person to whom Rent is paid.
Stevens, John William.	Two rooms, first floor, furnished.	51, Brick Street	16s. a week	William Johnson 51, Brick Street.

I hereby declare that I have during the twelve calendar months immediately preceding the fifteenth day of July in this year† (except during the period between the day of and the day of when I was absent in the performance of [here set out the duty which caused the absence])† (n) occupied as sole tenant [or as joint tenant with ], and resided in the above-mentioned lodgings, and that those lodgings are of a clear yearly value, if let unfurnished, of ten [or twenty] pounds or upwards, and I hereby declare that I am on the register of electors for the said parliamentary borough in respect of the same lodgings as above mentioned, and I desire to have my name inserted in the old lodgers list (n).

Dated the day of 18 .

(Signed) A.B. (the claimant).

I, the undersigned, hereby declare that I have witnessed the above signature of the above-named [here state name of claimant], at the date stated above and that I believe the above claim to be correct (o).

Dated the day of 18 .

(Signed) C.D., of

[state residence and calling of witness.]

NOTE.—If the claim is in respect of different rooms successively occupied as lodgings in the same house, the notice of claim must specify each room, or set of rooms, so occupied.

If the claimant is on the register in respect of the same lodgings, and desires to have his name inserted in the old lodgers list published on or before the first day of August, he must send in his claim on or before the twenty-fifth day of July.

In any other case he must send it in after the last day of July, and on or before the twentieth day of August.

If there are two joint lodgers, the yearly value of the lodgings must be twenty pounds or upwards.

If a lodger during any part of the qualifying period not exceeding four months at any one time has in the performance of any duty arising from

(n) See Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11), s. 2, ante, p. 569. Omit the words between crosses if they are not applicable.

(o) Both the dates which are left blank in the form must be carefully filled in. This should be done by the claimant in respect of the date above his own signature, and by the witness in respect of the date immediately above his signature, at the time when the claimant and witness sign the claim and attestation respectively, see ante, p. 236.

**Schedule 3.** or incidental to any office, service, or employment held or undertaken by him been absent from his lodgings, although he retained them in his occupation, he is entitled to be registered as if he had inhabited his lodgings during that period.

### FORM (I.)

#### FORM OF NOTICE OF OBJECTION (*p*).

##### No. 1.—Notice of Objection to be given to Overseers (*q*).

To the overseers of the parish [*or township*] of  
 I hereby give you notice that I object to the name of        being retained on [division of] the        list of electors for your parish [*or township*] as a parliamentary elector for the parliamentary borough of        and as a burgess for the municipal borough (*r*) of        [*or as one or the other*] [and to the omission of the said name from the corrupt and illegal practices list].

Dated the        day of        18 .  
 (Signed)        A.B. [*place of abode*]  
    on the list of parliamentary electors and burgesses, *or* county electors [*or on the one or the other*] for the parish [*or township*] of

##### No. 2.—Notice of Objection to be given to Person objected to (*s*).

To C.D.

I hereby give you notice that I object to your name being retained on [division of] the        list of electors for the parish [*or township*] of        as a parliamentary elector for the parliamentary borough of        and as a burgess for the municipal borough (*t*) of        [*or as one or the other*] [and to the omission of the said name from the corrupt and illegal practices list] on the following grounds (*u*), viz :—

1. That [*e.g.*, you have not occupied for twelve months to July 15th.]
2. That
- 3.

Dated the        day of        18 .  
 (Signed)        A.B. (*y*) of [*place of abode*] (*x*) on the list of parliamentary electors and burgesses, *or* county electors [*or on one or the other*] for the parish [*or township*] of        (*a*).

**NOTE.**—The notice of objection in each of the above two cases, Nos. 1 and 2, should, if there is more than one list, specify the list, and if the list referred to is made out in divisions, should specify the division to which the objection refers; and if the list contains two or more persons of the same name, should distinguish the person intended to be objected to (*b*).

If the notice refers to division one of the occupiers list the reference to a burgess [*or* county elector] may be inserted, but if the notice refers to division two, of the occupiers list or to the lodgers list, the reference to a

(*p*) *Ante*, p. 647, paragraph 41 of this precept.

(*q*) *Ante*, p. 296.

(*r*) If the parish is not in a municipal borough substitute “county electors” and “administrative county” for “burgess” and “municipal borough.”

(*s*) *Ante*, p. 298.

(*t*) If the parish is not in a municipal borough substitute “county electors for the administrative county” for “burgesses for the municipal borough.”

(*u*) *Ante*, p. 298.

(*x*) *Ante*, p. 303.

(*a*) *Ante*, p. 305.

(*b*) *Ante*, p. 299.



burgess [or county elector] should be omitted, and if the notice refers to division three of the occupiers list, the reference to a parliamentary elector should be omitted. **Schedule 3.**

If the objection is to a parliamentary elector, the objector must sign himself as being on the list of parliamentary electors; if the objection is to a burgess [or county elector] the objector must sign himself as being on the list of burgesses [or county electors]; and if the objection is to a person both as a parliamentary elector and as a burgess [or county elector], the objector must sign himself as being on the list as both.

FORM (K.)

LIST OF CLAIMANTS IN RESPECT OF THE OCCUPATION FRANCHISE TO BE PUBLISHED BY THE OVERSEERS (c). [List of claimants (parliamentary and local government).]

**No. 1.—List of Occupier Claimants (Parliamentary and Local Government).**

Parish [or Township] of

The following persons claim to have their names inserted in division one of the occupiers list of electors.

Name of Claimant in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) *A.B.* } Overseers for the above  
*C.D.* } parish [or township.]

NOTE.—Form No. 1 applies to persons who claim to be entered in division one of the occupiers list, both as parliamentary electors and as burgesses [or county electors].

A copy of the claim must be entered in this form.

Any claim to be omitted from the corrupt and illegal practices list should be added to the foregoing list of claimants.

**No. 2.—General List of Claimants (Parliamentary).**

Parish [or Township] of

The following persons claim to have their names inserted in division two of the occupiers list of electors in respect of the occupation of property in this parish [or township] otherwise than as lodgings, or in respect of reserved rights.

[List of occupier claimants (parliamentary).]

Name of Claimant in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) *A.B.* } Overseers for the above  
*C.D.* } parish [or township].

**Schedule 3.** NOTE.—This form applies to claims by persons to be inserted in division two of the occupiers list, or in the reserved rights list as parliamentary electors only.

Any claim to be omitted from the corrupt and illegal practices list should be added to the foregoing list of claimants.

A copy of the claim must be entered in this form.

[List of lodger claimants (parliamentary).]

**No. 3.—List of Lodger Claimants (Parliamentary).**

Parish [or Township] of

The following persons claim as lodgers in this parish [or township] to have their names inserted in the list of electors for the parliamentary borough of

Name of Claimant in full, Surname being first.	Description of Rooms occupied, and whether Furnished or not.	Street, Lane, or other Place, and Number (if any) of House in which Lodgings are situate.	Amount of Rent paid.	Name and Address of Landlord or other Person to whom Rent is Paid.

(Signed) *A.B.* } Overseers for the above  
*C.D.* } parish [or township].]

NOTE.—In this form the particulars should be copied from the claims sent in.

[List of claimants (local government).]

**No. 4.—List of Claimants (Local Government).**

Parish [or Township] of

The following persons claim to have their names inserted in division three of the occupiers list of electors in respect of the occupation of property in this parish [or township].

Name of Claimant in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].]

NOTE.—Form No. 4 applies to persons who claim to be entered in division three of the occupiers list as burgesses [or county electors] only.

Any claim to be omitted from the corrupt and illegal practices list must be added to the above list.

A copy of the claim must be entered in this form.

**No. 5.—List of Claimants (Parochial Electors List).****Schedule 3.**

Parish [or Township].

The following persons claim to have their names entered in the parochial electors list for this parish [or township].

[List of claimants (parochial electors.)]

Name of Claimant in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of Qualifying Property.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township.]

**NOTE.**—Form No. 5 applies to persons who claim to have their names entered in the parochial electors list as parochial electors only.

Any claim to be omitted from the corrupt and illegal practices list must be added to the above list.

A copy of the claim must be entered in this form.

**FORM (L).**

**FORM OF LIST OF PERSONS OBJECTED TO BE PUBLISHED BY THE  
 OVERSEERS (d).**

**No. 1.—List of Persons objected to (Parliamentary and Local Government).**

Parish [or Township] of

[List of persons objected to (general).]

The following persons have been objected to as not being entitled to have their names retained on division one of the occupiers list of electors.

Name of Person objected to in full, Surname being first.	Place of Abode.	Nature of the supposed Qualification.	Description of Qualifying property.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].

**NOTE.**—This form applies only to persons objected to who appear in division one of the occupiers list, as entitled to vote both as parliamentary electors and as burgesses [or county electors].

In this form the particulars should be copied from the list of electors.

Any objection to the omission of a person from the corrupt and illegal practices list should be added to the foregoing list.

**Schedule 3. No. 2.—List of Persons on Occupiers List who have been objected to (Parliamentary).**

[List of persons  
objected to  
(parlia-  
mentary.)]

Parish [or Township] of

The following persons have been objected to as not being entitled to have their names retained on division two of the occupiers list of electors in respect of the occupation of property in this parish [or township] (other than lodgings) [or in respect of reserved rights].

Name of Person objected to in full, Surname being first.	Place of Abode.	Nature of the supposed Qualification.	Description of Qualifying Property.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].

**NOTE.**—This list applies to objections to persons whose names appear in division two of the occupiers list as entitled to vote as parliamentary electors only [or in the reserved rights list].

In this form copy particulars from the list of electors.

Any objection to the omission of a person from the corrupt and illegal practices list should be added to the foregoing list.

**No. 3.—List of Lodgers objected to (Parliamentary).**

[List of persons  
objected to  
(lodgers).]

Parish [or Township] of

The following persons have been objected to as not being entitled to have their names retained on the old lodgers list among the electors for the parliamentary borough of

Name of Person objected to in full, Surname being first.	Description of Rooms occupied, and whether Furnished or not.	Street, Lane, or other Place, and Number (if any) of House in which Lodgings are situate.	Name and Address of Landlord or other Person to whom Rent is paid.

(Signed) *A.B.* } Overseers of the above  
*C.D.* } parish [or township].

**NOTE.**—This form applies only to lodgers on the old lodgers list who are objected to.

The list of lodgers so objected to should form a separate list from that of other persons objected to.

In this form copy particulars from the old lodgers list.

**No. 4.—List of Persons objected to (Local Government).**

[List of persons  
objected to  
(local govern-  
ment).]

Parish [or Township] of

The following persons have been objected to as not being entitled to have their names retained on division three of the occupiers list of



electors in respect of the occupation of property in this parish [*or* **Schedule 3.** township].

Name of Person objected to in full, Surname being first.	Place of Abode.	Nature of the supposed Qualification.	Description of Qualifying Property.

(Signed) *A. B.* } Overseers of the above  
*C. D.* } parish [*or* township.]

NOTE.—This form applies only to objections to persons whose names appear in division three of the occupiers list as entitled to vote as burgesses [*or* as county electors] only.

In this form the particulars should be copied from the list of burgesses [*or* county electors].

Any objection to the omission of a person from the corrupt and illegal practices list should be added to the foregoing list.

FORM (M.)

**Declaration for correcting Misdescription in List (e).**

I, of No. in the parish of [*or* township] in the parliamentary borough of and in the municipal borough [*or* administrative county] of [*as the case may be*], do solemnly and sincerely declare as follows :—

1. I am the person referred to in division of of the occupiers list of electors [*or* in the list of (*specifying the particular list*)] made out for the parish [*or* township] of by an entry as follows :—

Name as described in List.	Place of Abode as described in List.	Nature of Qualification as described in List.	Description of Qualifying Property.
Brown, John - -	High Street - -	Shop - - - -	2, Shire Lane

2. My correct name and place of abode and the correct particulars respecting my qualifications are, and ought to be stated, for the purposes of the register of electors for as follows :—

Correct Name.	Correct Place of Abode.	Correct Nature of Qualification.	Correct Description of Qualifying Property.
Brown, Joseph -	15, High Street -	House - - - -	24, Shire Lane.

Dated this day of 18 . (Signed)  
Made and subscribed before }  
me this day }  
of 18 . }

*A. B.* Justice of the peace for (*f*).

NOTE.—This form must be adapted to suit the various lists.

(e) *Ante*, pp. 327, 329.

(f) The person before whom the declaration is made should affix his official description.

## Schedule 3.

## FORM (N.)

NOTICE OF WITHDRAWAL OF OBJECTION (*g*).

## No. 1.—Notice to the Person objected to.

To *A. B.*

I hereby give you notice that I withdraw my objection to your name being retained on [division of] the list (*h*) of † so far as regards the ground of objection numbered in my notice to you of such objection † (*i*).

Dated the            day of            18 .  
(Signed) (*k*).

## No. 2.—Notice to the Town Clerk.

To the Town Clerk of            .

I hereby give you notice that I withdraw my objection to the name of            being retained on [division of] the list (*h*) of † so far as regards the ground of objection numbered in my notice to him of such objection † (*i*).

Dated the            day of            18 .  
(Signed) (*k*).

## FORM (O).

NOTICE REVIVING AN OBJECTION (*g*).

## No. 1.—Notice to the Person objected to.

To *A. B.*

I hereby give you notice that I revive the objection which was made by            , since deceased, to your name being retained on [division of] the list (*h*) of † so far as regards the ground of objection numbered in the notice to you of such objection † (*l*).

Dated the            day of            18 .  
(Signed) (*k*)

## No. 2.—Notice to the Town Clerk.

To the Town Clerk of            .

I hereby give you notice that I revive the objection which was made by            , since deceased, to the name of            being retained on [division of] the list (*h*) of † so far as regards the ground of objection numbered in the notice to the person objected to of such objection † (*l*).

Dated the            day of            18 .  
(Signed) (*k*)

(*g*) *Ante*, p. 309.

(*h*) The list should be referred to in the manner prescribed for the notice of objection.

(*i*) Omit the words between crosses if the objection is wholly withdrawn.

(*k*) The notice should be signed in the manner prescribed for the notice of objection.

(*l*) Omit the words between crosses if the objection is wholly revived.

## FORM (P).

## Schedule 3.

**Form of Elector's Notice of Selection in the case of Duplicate Entries (m).**

To the Revising Barrister for the parliamentary borough of .  
 I hereby elect to vote in respect of the following entry in [division  
 of] the list of electors for the parish [or township] of .

Name of elector in full, Surname being first.	Place of Abode.	Nature of Qualification.	Description of qualifying Property.

NOTE.—The foregoing Form should be filled up with a copy of the entry in the list of electors which the elector wishes to have retained for voting.

The notice should specify the list, and, if the list is made out in divisions the division in which the entry referred to appears (n).

If the elector wishes to retain different entries for different purposes, he must adapt the form accordingly.

## GENERAL POSTAL REGULATIONS.

**Parliamentary and Municipal Registration Notices.**

Notices of objection to persons in lists of voters in England and Wales, and Ireland, and other notices required to be given, under the Acts 6 & 7 Vict. c. 18; 13 & 14 Vict. c. 69; 41 & 42 Vict. c. 26; and 48 & 49 Vict. c. 15 and c. 17, may be served by the post, under the provisions of the above-named Acts, on prepayment of postage in stamps, and of a registration fee of twopence. If admissible as circulars they can be sent at the halfpenny rate, otherwise letter postage must be paid. Such notices must be presented, duly directed, open and in duplicate, to the postmaster of a money order office (*i.e.*, post offices where money order business is transacted; consequently whenever such business is temporarily suspended at any office none of such notices can be received there), who will compare the notices and the duplicate, and, if they agree, he will stamp and return the duplicate to the bearer.

As a general rule, the notices, when less than 100 in number, must be presented to the postmaster at least an hour before the fixed times for posting ordinary letters. In London, and at offices where the night mails leave at or about 8 p.m., the following are the latest times of posting:—

When notices exceed	100 but not	500	-	-	-	4 P.M.
"	500	"	1000	-	-	3 "
"	1000	"	2000	-	-	2 "
"	2000	"	3000	-	-	12 NOON.
"	3000	-	-	-	-	10 A.M.

Elsewhere than in London, etc., the above rule is to be adapted to the time at which the night mails are despatched.

For re-direction the notices are subject to the same regulations as letters.

The production of the stamped duplicate by the person who posted the notice is evidence of the notice having been given to the person at the place mentioned in the duplicate, on the day on which such notice would, in the ordinary course of post, have been delivered there. Care should be taken to post notices of objection in time for delivery in the ordinary course of post on or before August 20th.

(m) *Ante*, p. 340.

(n) That is to say, division No. 1, or division No. 2, or division No. 3. The note does not refer to territorial divisions.





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